

United States Court of Appeals
for the
District of Columbia Circuit



**TRANSCRIPT OF
RECORD**

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Court of Appeals, District of Columbia

APRIL TERM, 1905.

No. 15³ 355

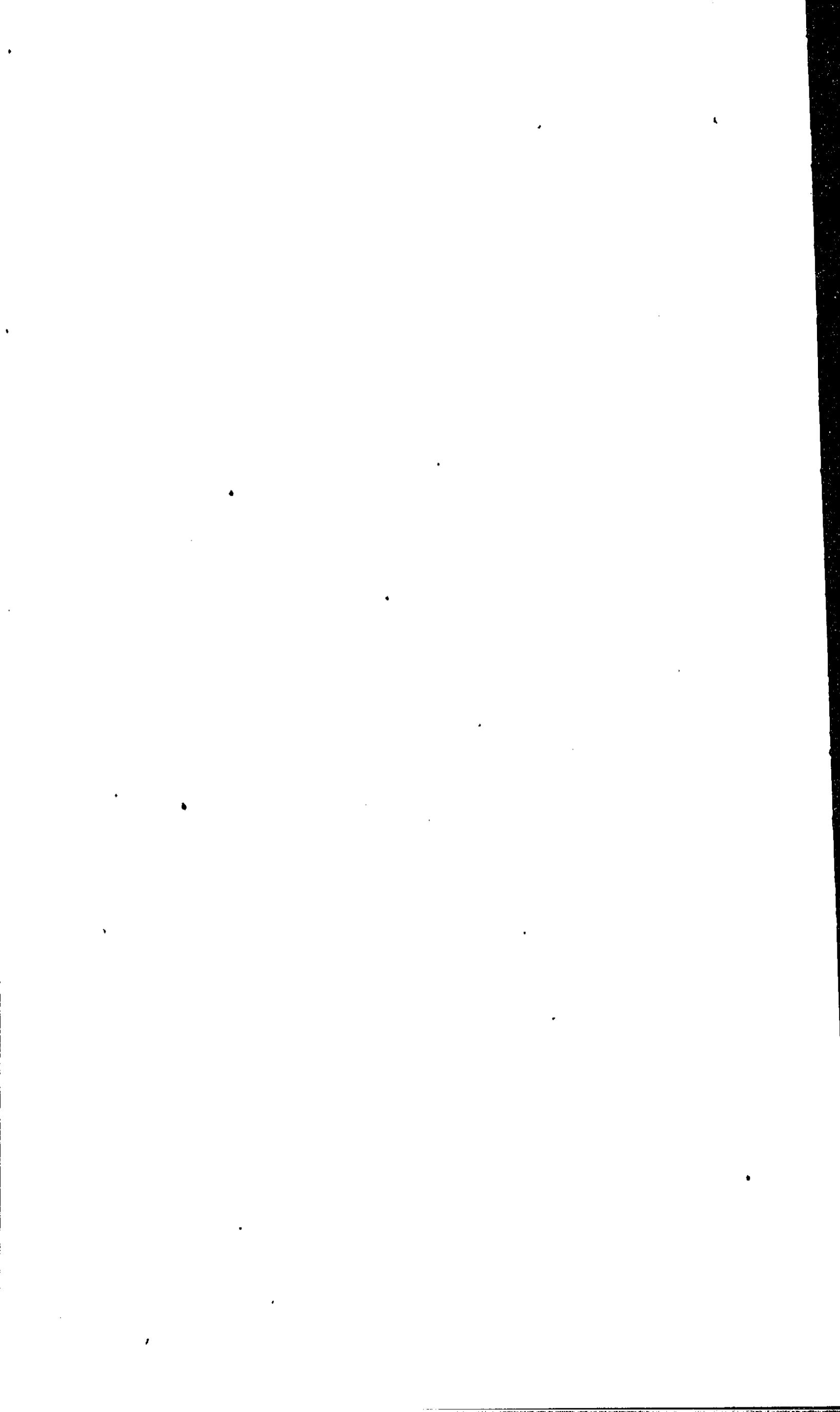
THE JAMES CLARK COMPANY, OF BALTIMORE CITY,
A BODY CORPORATE, OWNER OF THE STEAM TUG
"SARAH," APPELLANT,

vs.

THE STEAM FERRY BOAT "COLUMBIA" AND OWNERS.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

FILED APRIL 21, 1905.



COURT OF APPEALS OF THE DISTRICT OF COLUMBIA.

APRIL TERM, 1905.

No. 1543.

THE JAMES CLARK COMPANY, OF BALTIMORE CITY,
A BODY CORPORATE, OWNER OF THE STEAM TUG
"SARAH," APPELLANT,

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THE STEAM FERRY BOAT "COLUMBIA" AND OWNERS.

APPEAL FROM THE SUPREME COURT OF THE DISTRICT OF COLUMBIA.

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In the Court of Appeals of the District of Columbia.

THE JAMES CLARK COMPANY OF BALTIMORE CITY, a
Body Corporate, Owner of the Steam Tug "Sarah,"
Appellant,
vs.
THE STEAM FERRY BOAT "COLUMBIA" AND OWNERS. } No. 1543.

a Supreme Court of the District of Columbia.

THE JAMES CLARK COMPANY OF BAL- }
timore City, a Body Corporate, Owner
of the Steam Tug "Sarah," } No. 608. District Court.
vs.
THE STEAM FERRY BOAT "COLUMBIA"
and Owners. }

UNITED STATES OF AMERICA, }
District of Columbia, }^{ss}:

Be it remembered, that in the supreme court of the District of Columbia, at the city of Washington, in said District, at the times hereinafter mentioned, the following papers were filed and proceedings had, in the above-entitled cause, to wit:—

1 *Libel for Salvage.*

Filed November 3, 1903.

In the Supreme Court of the District of Columbia, Holding a
District Court of the United States for said District.

THE JAMES CLARK COMPANY OF BALTI- }
more City, a Body Corporate, Owner
of the Steam Tug "Sarah," } In Admiralty. No. 608.
vs.
THE STEAM FERRY BOAT "COLUMBIA"
and Owners. }

To the honorable the judge of the supreme court of the District of Columbia, holding a district court of the United States for said District, in admiralty:

The James Clark Company of Baltimore City, a body corporate, owner of the steam tug "Sarah," for itself as well as for the crew

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thereof, at the times hereinafter mentioned, files this its libel against the steam ferry boat "Columbia," her engines, boats, tackle and apparel, of the port of Washington, D. C., and against all persons lawfully intervening for any interest therein, in a cause of salvage, civil and maritime, and thereupon it doth articulately propound as follows:

First. That the libellant, The James Clark Company of Baltimore City is a body corporate of the State of Maryland, duly incorporated and was at the times hereinafter mentioned the owner of the
2 said tug "Sarah," and as such prosecutes this suit for itself as well as for the crew of the said tug.

Second. That on the night of the thirteenth day of May 1903, the said ferry boat "Columbia" was tied up at her wharf in the city of Washington, for the night with her fires banked and no one on board but a watchman, so this libellant is informed, to care for her safety.

That about 9.25 o'clock p. m. fire was discovered on the said ferry boat by the crew of the said tug "Sarah," and she immediately got under way and went to the rescue of the said ferry boat, where she arrived at 9.40 o'clock p. m. just fifteen minutes after the discovery of the fire. Upon arriving at the fire the captain of the tug immediately put out her three inch fire hose on the burning ferry boat and the fire at the time was burning fiercely and the total destruction of the steamer was threatened.

The wharf and shed to which the ferry boat was tied soon became a roaring furnace and the shed fell in thus preventing the men of the fire department who were on the scene from approaching the steamer from the wharf side and thus the real fighting of the fire was left to be done from the said tug "Sarah." That in fighting the fire from the said tug, the men of the fire department were taken on the tug so as to better enable them to reach the steamer.

That the said tug "Sarah" at great risk and jeopardy to the lives of her crew as well as to herself, kept close to the burning steamboat and played her hose onto the steamer and especially about her engine and machinery, where the fire was most fierce, and finally
3 succeeded about 11.45 o'clock p. m., after two hours hard and dangerous work, in putting out the main body of fire; but although the main body of the fire was about out at 11.45 p. m., yet the said tug still continued at her post until one o'clock a. m. in putting out sparks and occasional flames round and about the decks of the steamer, at which hour the said ferry boat sank at her wharf having been filled with water from the hose of the said tug "Sarah."

That at the time she sank some men of the fire department and the captain of the ferry boat were on the steamer and were rescued by the tug and its crew!

The said tug remained alongside until 7.30 o'clock in the morning in case assistance should be required.

Third. That the said tug was engaged in her efforts to save the said ferry boat from 9.25 p. m. until 1 a. m., a period of about three

hours and one half, and that it was due solely to the prompt action of the said tug and those on board of her that the ferry boat was not totally destroyed, as there was no other tug or fire boat on hand and no other persons to fight the fire but the department men, who as above set forth were greatly handicapped by the falling of the shed on the wharf.

Fourth. That the libellant as owner of the said tug on behalf of itself and the crew is entitled to reasonable and proper salvage compensation for such service. That it has demanded same from the owners of said ferry boat but payment has been refused.

Fifth. That the said ferry boat "Columbia" is a side wheeler, composite steamer of 459 tons net register, 148 ft. long, 48 ft. 4 beam and 12 ft. deep and was built in 1891. Your libellant is informed and believes that the said steamer is now worth in her damaged condition \$20,000.00.

Sixth. That the said steam tug "Sarah" is well and fully equipped as a fire tug and has powerful pumps for such service and was constantly exposed to great danger and damage by fire and was of great value to wit the sum of \$20,000.00.

Seventh. That the said steamer is in this district and within the jurisdiction of this court.

Eighth. That all and singular the premises are true and within the admiralty and maritime jurisdiction of the United States and of this honorable court.

Wherefore your libellant prays that process in due form of law, according to the custom of this honorable court in cases of admiralty and maritime jurisdiction, may issue against the said steam — "Columbia," her engines, tackle, apparel and furniture, and that all persons claiming any interest therein may be cited to appear and answer upon oath all and singular the matters aforesaid, and that this honorable court will be pleased to decree to this libellant a reasonable and proper salvage in proportion to the value of the said steam ferry boat and it claims five thousand dollars (\$5,000.00) as a reasonable salvage; and that the said steam ferry boat "Columbia" may be condemned and sold to pay said salvage with all costs, charges and expenses and that this libellant may have such other and further relief in the premises as in law and justice it may be entitled to receive.

THE JAMES CLARK COMPANY OF
BALTIMORE CITY,
By W. S. CAHILL, President.
BLAIR & THOM,
H. N. ABERCROMBIE,
Proctors for Libellants.

5 Subscribed and sworn to before me this 30th day of September, 1903, by Winfield S. Cahill, president and treasurer of the James Clark Company of Baltimore City.

HOWARD D. ADAMS,
[SEAL.] *Notary Public.*

Answer.

Filed January 20, 1904.

In the Supreme Court of the District of Columbia, Holding a District Court of the United States for said District.

THE JAMES CLARK COMPANY OF BALTIMORE CITY, a Body Corporate, Owner of
the Steam Tug "Sarah,"

vs.

THE STEAMBOAT Boat "COLUMBIA" AND
Owners.

} In Admiralty. No. 608.

The Answer of the Washington Steamboat Company, Limited.

The Washington Steamboat Company, Limited, a body corporate, duly incorporated, for answer to the libel against the steam ferry boat "Columbia," filed in the above cause, shows to the court as follows:

1. It is willing to admit, for the purposes of this suit, that the libellant, The James Clark Company of Baltimore, is a body corporate, and was on the 13th day of May, 1903, the owner of the tug "Sarah" as alleged.

2. On the night of May 13th, 1903, the ferry boat "Columbia," which was and still is owned by this respondent, was tied up in her dock, at her wharf in the city of Washington, with her fires banked as alleged, and was discovered to be on fire at or shortly after 9 o'clock p. m. of the said 13th day of May, 1903. This respondent believes it to be true that the said tug "Sarah" and her crew gave some assistance in fighting the said fire; but it denies, as unfounded in fact, the allegations of the libel that the wharf and shed to which the ferry boat was tied "became a roaring furnace," or that the men of the fire department of the city of Washington were prevented thereby, or from any cause, from approaching the steamer "Columbia" from the wharf side, or that the real fighting of the fire was left to be done from the tug "Sarah," or that the men of the fire department were taken on the said tug to enable them to reach the steamer, or that the services of the said tug were rendered at great risk and jeopardy to the lives of her crew or to herself as alleged, or that the said tug put out the main body of the fire, or sank the steamer, or preserved her from sparks or flames after she had been sunk until after 1 o'clock a. m. as alleged, or that the captain of the ferry boat and men belonging to the fire department were on the steamer and were rescued by the tug and its crew, each and every of which allegations this respondent, upon its best knowledge, information and belief, avers to be exaggerations of the grossest description; and it demands strict proof of each and

every of the allegations of the petition in regard to the service of the said "Sarah," in so far as the same may be material.

7 3. It denies that the said tug boat was engaged in the effort to save the ferry boat until 1 o'clock a. m., or later than about 11.30 p. m., of the said 13th day of May. It further denies that it was due to the action of the tug and those on board of her, prompt or otherwise, that the said ferry boat was not totally destroyed. It avers, upon its best information, knowledge and belief, that the said fire was fought by seven engine companies and two truck companies of the fire department of the District of Columbia, in charge of two assistant chiefs of the said fire department, and that no less than ten hose of the said fire department were playing upon the said fire and upon the said ferry boat, and were the efficient causes of the saving of said boat from total destruction.

4. Upon its best advices, information and belief, this respondent denies that the libellant, on behalf of itself as owner of the said tug, or on behalf of the crew, is entitled to compensation as salvage for the services rendered as claimed by it; and it claims the same benefit of its objection as if it had demurred to the libel. It has always been willing to concede that the said tug boat and its crew rendered some services upon the occasion in question, and has always been willing to make payment of a reasonable compensation therefor, but it admits that it has refused to treat with the libellant upon the basis of salvage, or to pay to it the excessive and unreasonable demands made by it.

5. It admits that the ferry boat "Columbia" is a steamer substantially of the character described in the libel, but it denies that the said steamer, in its present damaged condition, is worth \$20,000, or any sum approximating that amount.

6. Upon information and belief, it denies that the tug "Sarah" was, constantly or otherwise, exposed to great danger and damage by fire. It has no knowledge of its equipment as a fire tug, or of its value, and demands strict proof thereof if material.

7. It admits that the remains of the ferry boat "Columbia" are in the District of Columbia.

8. It denies that the allegations of the bill are true except in so far as they are hereinabove admitted, and it denies that the said allegations make a case within the admiralty and maritime jurisdiction of the United States, and of this honorable court, as alleged.

Having fully answered, it prays that the said libel may be hence dismissed, with costs.

THE WASHINGTON STEAMBOAT CO.,
"LIMITED,"

[SEAL.] By D. C. ANDREWS, Pres'd't.

J. J. DARLINGTON, Proctor.

STATE OF NEW YORK, }
 City and County of New York, } ss:

I, D. C. Andrews, on oath say that I am the president of the Washington Steamboat Company, Limited, and have read the foregoing answer by it subscribed ; that I know the contents of the said answer, that the allegations therein set forth as of personal knowledge are true, and that those set forth upon information and belief I believe to be true.

D. C. ANDREWS.

Subscribed and sworn to before me this eighteenth day of January, A. D. 1904.

[SEAL.]

BERT G. FAULHABER,
Notary Public, No. 9, N. Y. County.

Testimony on Behalf of Libellant.

Filed January 13, 1905.

HERBERT M. CANNON.

In the Supreme Court of the District of Columbia, Holding a District Court for the United States for said District.

THE JAMES CLARK COMPANY OF BALTIMORE CITY
 (a Body Corporate), Owner of the Steamtug
 Sarah,

} In Admiralty.

vs.

THE STEAM FERRY BOAT COLUMBIA AND OWNERS.

It is agreed that this testimony be taken by consent, the signing sealing, certification and filing waived ; but subject to all legal exceptions to the competency, and admissibility of the testimony, the stenographer's fees to be charged in lieu of notary's fees and form the basis of taxation for costs.

Counsel present: H. N. Abercrombie, Esq., proctor for the libellant; J. J. Darlington, proctor for the respondent.

HERBERT M. CANNON, a witness of lawful age, produced on behalf of the libelant, having first been duly sworn, testified as follows :

Direct examination.

11 (By Mr. ABERCROMBIE:)

1 Q. Captain Cannon state your name and your occupation ? A. Herbert M. Cannon, captain of the tug Sarah.

2 Q. How long have you been master of the Sarah ? A. Going on four years; four years this March coming.

THE STEAM FERRY BOAT "COLUMBIA" ET AL.

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3 Q. To whom does the Sarah belong? A. Belongs to the Maryland Dredging Company now she belongs to Mr. Frank A. Furst and Charles E. Nelson, superintendent of the Maryland Dredging Company.

4 Q. Who were the owners of the Sarah in May last? A. The James Clark Company, Mr. W. S. Cahill, manager.

5 Q. When did the ownership change if you know? A. They changed ownership the first day of July; that is when this Mr. Nelson and Mr. Furst received the Sarah to go into the mud business.

6 Q. Captain where was your tug on or about the 13th of May last? A. We were going up the Potomac river with two vessels in tow and arrived in Washington in the afternoon. We took the vessels away and tied up to 9th street in Washington.

7 Q. Do you know the ferry boat Columbia? A. Yes, sir.

12 8 Q. Did you see her on fire? A. Yes sir.

9 Q. When was that? A. That was on the night of the 13th, I think, about nine o'clock.

10 Q. Will you please state how you came to find her afire? A. Yes sir, I was up town on 11th street, the mate and I, and we stopped in a saloon to get a drink and while the man was waiting on us we saw the engines go up the street and I looked out through the screen doors and I saw the engine go down 11th street, and I said there is a fire somewhere down by the river. We came out and jumped on the next car following the engines down and when we got down to Water street foot of 11th street and the car stopped

said there is a fire somewhere down by the river. We came out and jumped on the next car following the engines down and when we got down to Water street foot of 11th street and the car stopped right at the foot of 9th street where our boat was lying and we ran aboard the boat. The engineers was there and had steam and I merely told them to get the hose ready and we proceeded to the fire. We arrived at the fire there about 9.30 I think it was and we worked on that ferry boat on fire—the ferry boat projected out in the river

and we put the tug boat Sarah inside of the ferry boat

13 Columbia—to the windward side of her—the end projecting out in the river; the ends are alike, I don't know which was stern, but I would imagine it was the stern. I put the Sarah on the starboard side of the ferry boat Columbia where I could run my line of hose right up both gangways and play on that fire down round the engine room where the fire was the hottest. Up around the boiler where the fire was the greatest until finally we darkened that some until the sparks and burning timber had fallen down in the lower engine room and set fire to the grease and stuff around there and while the firemen were cutting a hole in the decks. They came afterwards after we had gotten our hose there and had a hole open in the deck of the steamer and played water on that until we deadened that fire.

11 Q. Captain what equipment have you on the Sarah for fire fighting? A. We have a very large pump. It is a duplex pump that we have and standard size fire hose, three inch hose and a very long brass nozzle. She is equipped for fire and we had two streams

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of water one from the small donkey pump and the other to the fire pump. We use the fire pump for fire and wrecking purposes.

14 It is a very powerful pump she has.

12 Q. How long after you discovered a fire on the Columbia until you arrived at the Columbia to fight the fire? A. I should say it was about 11.30 or quarter to twelve something like that that we ceased the fire and sunk the boat—played water enough to sink the boat.

13 Q. You don't understand my question. How long was it from the time you first discovered the fire until you arrived at the fire? A. How long was it?

14 Q. Yes. A. I don't think it was more than about twenty minutes from the time we heard the engines and up until I was down aboard of my boat.

15 Q. When you arrived at the tug she was ready to leave then was she? A. Yes, the engineers were there. We hadn't been tied up very long. It was dark when we put the schooner into the wharf. My engineer was there and had steam up; all I had to do was to sing out and get the hose ready and I don't think we were more than five minutes going two blocks. We laid up at the 15 foot of 9th street and we were not more than five minutes going to where the steamer was burning.

16 Q. From your knowledge of 7th street and Water street and the river what would you say was the angle at which the ferry boat Columbia was in her dock? A. Well according to my knowledge and judgment of the river and the way that boat was lying that night one end of her was in her slip. The slip was made in that angle like (indicating with his thumb and forefinger the letter U). The east side of her slip seems to be the longest; she was right back in here with this end sticking out in the river, I should say about forty or forty-five degrees projecting out in the river.

17 Q. Which is the greater angle below the ferry boat or above the ferry boat? A. Above the ferry boat I should say was the greatest angle.

18 Q. Was there or was there not enough room between the ferry boat and the wharf on the starboard side as she laid that night for your tug to get in? A. Room enough for me to get my bow in there and that is the position in which I laid until we put 16 the fire out—until we sunk the boat. We put the Sarah's port side alongside of the steamer's starboard side head in. The steamer was lying in this position (indicating) and we layed the Sarah right along like that (indicating).

19 Q. Captain Cannon when you arrived at the Columbia who did you find on board? A. I didn't find anyone at all sir, no one at all aboard. We put our boat in position and got on the ferry boat's deck with our hose, the mate and I, and I didn't see anyone at all there until after we started the water and then I saw some man fumbling around there in the dark and afterward he came up

and I found it was the captain (this gentleman here) after we got there with our hose and was playing water.

20 Q. Did you hear the captain say whether or not there was anyone on board that night?

Objected to on the ground that conversations between the captain and witness would not be testimony.

A. No sir, I didn't hear him say whether there was anyone there at all. After we had got to work this gentleman I saw on the boat through the smoke I discovered was the captain. He came up and helped me with my hose. I had heard the captain say

Objected to for the same reason.

(Witness continuing:) I had heard the captain say that he had tied the steamer up and he went home and when he heard the alarm he was very much surprised to hear the ferry boat was on fire because he had left everything in good shape—the captain told me that I remember.

21 Q. Captain when you arrived at the Columbia what was the character of the fire? A. Well the end that was into the slip up around their pilot house was all afire. All that light joiner work, that was all burning. That was where it was the greatest between the smokestack and inside the pilot house. Near the wharf it was the greatest and after we got there and started that hose, that all collapsed and fell down inside of the ferry boat on her deck and started the fire around her engine and it came along up the deck and that is where we played the water to keep the fire out of the lower engine room where I thought the heat would be 18 . the greatest amongst that grease and waste and it was all afire then. The wind was blowing the heat away from me, that is why I placed my boat in that end of the ferry boat to keep clear of the heat as much as I could.

22 Q. Who were with you on the Sarah assisting you in fighting the fire? A. The mate, deckhand and the fireman.

23 Q. Fireman of the Sarah? A. Fireman of the Sarah, yes sir. After the firemen that belongs to the fire department had got their hose out and on this shed on the wharf and had gotten around the ferry boat and got aboard of the ferry boat—I don't know how they could have reached there, came and assisted me with my hose. We had been playing on the fire I expect nearly a half hour before the firemen of the fire department assisted me with my hose.

24 Q. Did the fire department have a hose on the vessel? A. After a while, but not when we first arrived here they didn't have any hose on the vessel.

25 Q. Did you know any of the fire department men? A. No I wasn't personally acquainted with them, but some of them intro-

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19 duced me to Mr. Wagner, the chief of the fire department. They told me he was captain of the fire department and they introduced me to Mr. Wagner.

26 Q. Who else did you see? A. Mr. Padgett and Mr. Sutton.

27 Q. Who is Mr. Sutton? A. He is the harbor master up there. They congratulated me on the services that we did there that night.

Objected to as not testimony competent for any purpose.

(Witness continuing:) That we did very good service and that we had a very good apparatus for fighting fire—and so we had.

Same objection and notice given of motion to exclude both answers.

28 Q. Did you have any conversation with Mr. Padgett? A. Yes sir, after we had sunk the steamer and had got the fire out, Mr. Padgett—

Counsel for respondent objects to any conversation between the witness and Mr. Padgett as being hearsay and incompetent.

(Witness continuing:) Mr. Padgett and I stood on the wharf and talked with Mr. Wagner the chief of the fire department. I don't remember now distinctly whether Mr. Sutton was present 20 then or no, but I think Mr. Sutton came afterwards. I told Mr. Padgett I had ruined a suit of clothes and he says Well you are liable to do anything like that in a fire—you put in your claim and I will see what I can do to see that you get your claim. That is what Mr. Padgett remarked to me. That is about all the conversation that Mr. Padgett and I had.

29 Q. What conversation did you have with Mr. Padgett the next morning?

Objection renewed and notice given of motion to strike out at the hearing.

A. Only about the burning of the steamer and I think the next morning when I started to leave there I told him I had ruined my clothes and my watch had got wet and the inside and I thought I had ruined that and he says put in your claim and I will see what I can do to see that you get your claim; I will do what I can for you. I says then Mr. Padgett we are fixed to fight fires and we will have to be compensated something for this—some one will have to pay us for carrying our hose. I think that is the remark I made to Mr. Padgett.

21 30 Q. Did you get any answer to that? A. He says you put in your claim he says and I will see what I can do for you.

31 Q. Captain Cannon did you get any communication from the fire department in Washington? A. I got a letter a very good letter congratulating me on the very good service I did.

32 Q. When was that letter received do you remember now? A. No sir, I dont remember now what date it was.

33 Q. Look at this letter (handing witness letter) and see if that is the one? A. Yes sir, that is the letter, that is the letter wrote May 14th, yes sir.

"HEADQUARTERS OF THE FIRE DEPARTMENT,
DISTRICT OF COLUMBIA, WASHINGTON, *May 14, 1903.*

Captain Herbert Cannon, commanding tug boat Sarah, Baltimore, Md.

DEAR SIR: The department has received from its senior assistant chief, Mr. Wm. T. Belt, a report in which he requests me to extend to you his grateful appreciation of the valuable services you 22 rendered him last evening at the fire on the water front of this city. Assistant Chief Belt reports that you rendered great and valuable services, and, in conveying to you his thanks, I beg you to accept those of this department.

Very respectfully,
(Signed)

N. W. DUTTON,
Chief Engineer.
G."

which letter is offered in evidence and filed with the papers in the case marked Libelant's Exhibit Cannon No 1.

Objected to on the ground of being incompetent evidence and inadmissible being not only not under oath or subject to cross examination, but a statement of second hand and hearsay testimony and counsel for the respondent gives notice of motion to strike it out at the hearing.

34 Q. Just describe what you did after arriving at the Columbia; that is after you had tied up to the Columbia, where did you begin fighting the fire? A. From up in between her decks. When I arrived alongside of the steamer and made my tug boat fast 23 on this end projecting out into the river I came down out of the pilot house and took hold of the nozzle attached to the hose and got on the ferry boat deck and went up into the driveway. They have a driveway on each side of the ferry boat. I was fighting that fire overhead until the inside work fell and we then played the water around the engine and boiler room where the heat was the greatest. I did that to save that boiler and engine the best I could and then there was an iron brace and the wood had burned from around it and that fell down across our hose and we had to get our hose out and put it above the brace that fell down—hog brace I guess they call that. I then went up on the port side of the ferry boat and then the firemen got in there and cut a hole down through the deck where the wagons drive through, where there was some fire down the lower engine room and put that out. We got out of there and played where the fire was close to the coal bunkers;

the flames began to rush out of there and in a minute we stuck the hose down through and put that all out; then the fire was between the engine room and boiler. I saw the blaze flaming up through

there and we put the hose on the deck and had to kneel on
24 it to hold it and after we got the nozzle down on deck I got
on it with my knees and worked it around between the decks
and between the beams and the water was running down in the hold
until she took water in the ash pit. The captain told me afterwards
that the ash pit was open.

Objected to as hearsay and incompetent.

(Witness continuing:) The water came through this ash pit and then she began to go down pretty fast and as she was going down the end of this ferry boat laid their guard onto my guards—the fender we call them, caused their guard to lay on the tug boat's guards and started to careen the tug boat over. My engineer hollered to me and said Captain we are caught on the end of the steamer; she is caught on our guard. I moved the engine ahead and by moving the engine very quick released this hold and of course the tug boat was released from this end of the steamer that was resting on her guards. After the steamboat sunk we came around alongside of the pier that formed the slip where the ferry boat lay. We then put on our small hose—had the hose on—then played
the small hose on the donkey pump on the sparks on the
25 steamboat and on the wharf here and there and we laid there
until morning; that is after the steamer had sunk.

35 Q. How long do you think you had been on the ferry boat before you noticed any of the fire department men? A. I should say we were there all of twenty minutes or a half hour before I saw any of the firemen aboard of the steamboat.

36 Q. Captain do you keep a regular log of the Sarah? A. Well we do generally when we are towing in the bay, yes sir.

37 Q. Did you keep a regular log at this time of the Columbia? A. Yes sir, we kept a regular log of that accident and of those proceedings; we generally do when we are lying around the capes and towing in the bay.

38 Q. I mean from day to day? A. No sir, not every day I don't, no sir, but I did on this occasion. I did it because we had to anchor that day going up the Potomac river. I had two vessels in tow.

39 Q. That is in your handwriting (showing witness log of tug Sarah for May 13th, 1903)? A. No sir, that is not my handwriting.

26 40 Q. This is in whose handwriting? A. My mate.

41 Q. Was it kept by your order? A. Yes sir.

42 Q. Captain what time did the ferry boat Columbia sink? A. To the best of my recollection I think she sunk about 11.30—quarter of twelve something like that.

43 Q. After the fire what did you do? A. We changed the position of the tug Sarah and came around alongside of the wharf that

part of the wharf that formed this slip the ferry boat goes in, we laid there until the next morning after 7 o'clock or near 8 I think it was, before I proceeded on down the Potomac river.

44 Q. Did any of the fire department help you with the hose ?
A. Yes sir after they got aboard of the steamer they lent us a hand with our hose a while but when the steamer sunk we took the firemen and the captain of the steamer aboard the tug Sarah and came around to this wharf. They couldn't get off the steamer very well, that is without going overboard or walking up through the parts that was sunk down under the water ; they couldn't very well
27 walk ashore off of the ferry boat because the part out in the river had gone under the water entirely.

45 Q. Captain what did you consider the value of the Sarah at that time ? A. About \$20,000.00.

Question objected to on the ground that no qualification has been shown by the witness to give an expert opinion.

46 Q. Are you familiar with the value of tug boats ? A. Yes sir.

47 Q. What experience have you had ? A. I have been captain of tug boats twenty years now—twenty-one years.

48 Q. How many tug boats have you been on ? A. Been captain of, I don't know exactly how many ; I should say seven boats in that number of years.

49 Q. Do you know what the Sarah sold for ? A. I don't know exactly, I have heard what she sold for.

Objected to as hearsay and incompetent.

50 Q. Who did you hear it from ?

Objection renewed.

A. Heard it from people around the James Clark Company shop.

28 51 Q. Did you hear it from any of the company ?

Objected to.

A. Yes sir. Now since from my recollection I heard it from the president of the company. Mr. Cahill himself told me she sold for \$19,000.00.

Objected to and notice given of motion to strike out at the hearing.

52 Q. Captain what was the risk and danger that you were subjected to at the time of the fire ? A. There is always risk of boats catching on fire and a tug boat places herself in position to fight fire she is in danger of catching fire herself and also anybody fooling around the fire is likely to get hurt from various timbers or something falling. A boat is always in danger of damages fighting a fire. We were in danger of being capsized if the steamer had carried us down lower and the water ran in our fire room door she

would have sunk us. If the wind had changed from the position it was when the steamer was burning we would have caught fire before we got clear from her I imagine.

53 Q. How was the wind that night? A. About south or
29 south-south-west. I think it was somewhere from the south-
'ard. The wind was south I think.

54 Q. How did it carry the fire? A. All over the wharf property and the steamboat lying there at the next wharf, the Newport News, some sparks fell on her deck. The shed she was lying to caught fire and the police when they thought she was on fire had tug boats pull the Newport News out from her pier. The position the wind was it was blowing the fire all over the wharf property so no one at all could get down on the wharf property to fight the fire as easy as we could from the river front with a tug boat.

55 Q. Was there any one else on the river front? A. Fighting the fire?

56 Q. Fighting the fire. A. No sir.

57 Q. Was your's the only tug there? A. Only one we had there.

58 Q. Any other boat? A. No sir, didn't see any other boat around. We was the only boat playing there on it to my knowledge; I didn't see any other boat.

30 59 Q. The fire was carried away from the Sarah? A. Yes sir, the wind carried the fire from the Sarah, that is why I placed my boat around on that end.

60 Q. Was the Sarah injured in any way? A. No sir, she wasn't injured in any way.

61 Q. Captain did you know the Columbia at all before the fire? A. Oh yes sir, I knew the Columbia, she was quite a nice looking steamer of that kind ferry boat; smart looking boat I thought.

62 Q. Do you know who built her? A. No sir, I can't say I do.

63 Q. Do you know who put in her machinery? A. Well I won't be positive of that, no sir.

64 Q. Captain what was the value of the Columbia after the fire?

Objected to on the ground that no qualification to testify upon that subject has been shown by the witness and I give notice of motion to strike out at the hearing.

A. According to my opinion of the Columbia, her hull was in pretty good condition I thought from the amount of water we
31 throwed around the engine and boiler, her engine and boiler and hull from \$25,000.00 to \$30,000.

65 Q. Was worth that much? A. I consider she was worth about that much after we had put out the fire and sunk the hull.

66 Q. Why do you say that Captain, how do you fix that value? A. I don't consider the hull was damaged at all. The captain himself told me that night or the next morning—now I won't be positive which—that the steamer had been under a thorough examination and had been thoroughly overhauled. I think now since my

recollection allows me to think, I think the captain told me there had been \$10,000.00 spent on her hull not long before the fire.

Counsel for the respondent gives notice of motion to strike out so much of the answer as undertakes to state what the captain told the witness, as being hearsay, incompetent and inadmissible.

67 Q. What else enters into the value? A. I think the boiler and engine is all right—I don't think that is damaged much the way we kept the fire away from them. I don't think they are damaged much that is why I think the hull, engine and
32 boiler is worth at least from \$25,000.00 to \$30,000.00.

Counsel for respondent states that his objection applies to all this estimate as to value on account of the witness not being qualified.

68 Q. Did the water you put on her and the water that came into her when the Columbia sunk, hurt the machinery and boiler? A. No sir, no sir, did it good ; kept the heat from it; that we played on it before she sunk kept the heat from the boiler and engine.

69 Q. Now Captain what was the danger to the Columbia? A. What was the danger to the Columbia?

70 Q. From the fire, yes sir? A. Well, I think if we hadn't arrived there with the Sarah as soon as we did, I think the Columbia would have been a total loss entirely; hull, engines, boiler and everything.

71 Q. Why do you say that? A. Because we arrived there very promptly and we had a good fire apparatus and we played a sufficient amount of water on her to save the hull and boiler and to sink that boat in time to save the hull from the fire.

72 Q. The fire department was there to fight the fire wasn't
33 it? A. Yes sir, the fire department was there to fight the fire, but in my judgment the fire department couldn't do as much good to that fire as we could out from the water front. The wind blew the fire toward the shed and the fire department couldn't get their line of hose down around the steamer to fight the fire as we could from the front of the fire.

73 Q. Where was it necessary for the fire department to fight the fire? A. From the windward side of the fire.

74 Q. How far away is the street from the ferry boat; Water street I think it is? A. The ferry boat I should say laid at least 300 feet from the street.

75 Q. What facilities for fighting fire were there on the wharf property that you know of? A. That I don't know, I didn't see any at all. I didn't see any stream at all coming from the wharf property.

76 Q. Did you see any of the fire department engines? A. On the wharf, no sir, not to my recollection, I didn't see any on the wharf.

77 Q. Captain did you see any of the sheds of the wharves
34 there fall in? A. Yes sir, the shed that was nearly adjoining the ferry boat, on the starboard side of the ferry boat. That

was where the firemen had their line of hose down in order to fight that fire. That was as near as they could get from that point. That shed collapsed fell right down on the hose and I think it fell down on some of the men, but before they could get their line of hose out from under there we was on the deck of the ferry boat with our men and hose fighting the fire.

78 Q. Captain what personal property did you destroy, wearing apparel or anything of your own? A. Yes sir, I ruined a suit of clothes I had made for me that cost me \$28.00. My watch got wrong—stopped it—I had to send that to the jeweler and had that fixed.

79 Q. What did that cost you? A. \$10.00 to have it overhauled. The watch alone cost \$55.00, first cost.

80 Q. What do you consider your services worth that night; your services and the crew of the vessel? A. If we have saved the 35 amount of property I have stated—if the steamer is worth \$25,000.00 or \$30,000.00, I consider our services worth that night \$5,000.00.

81 Q. Were you or any of your crew injured at all? A. No sir, no sir, we escaped a falling rod that went from one column to the other across the ferry boat. We very near escaped that. We did escape it, it fell down behind us. We had got up between decks when it fell behind us and it fell across the hose. We had to get our hose out from under it—from under the rod that fell down.

82 Q. Captain the James Clark Company who is the libelant in this case, are they authorized to prosecute this case on your behalf? A. Yes sir.

83 Q. Captain what is the size of the Columbia—her length and breadth? A. I really couldn't tell you her dimensions sir, I haven't knowledge of that; I imagine—

Counsel for respondent objects to conjecture or imagination.

84 Q. You were present on the Columbia? A. Oh yes sir.

85 Q. What do you consider her length?

36 Objection renewed.

A. What do I consider her length, about 160 feet.

86 Q. What breadth was she? A. She was about 40 feet beam.

Cross examination.

(By Mr. DARLINGTON:)

1 X Q. At what hour did you arrive at Washington on the day of the fire? A. At what hour did I arrive that day?

2 X Q. Yes. A. Arrived there in the afternoon about 5 o'clock.

3 X Q. At what time did you leave your tug boat? A. At what time did I leave my tug boat? I left the tug about as near as I can recollect about 9 o'clock.

4 X Q. Where did you go? A. Went up to 11th street.

5 X Q. How far? A. Near the avenue.

6 X Q. How near the avenue? A. Oh I should say about a block from it.

7 X Q. How far is it from your tug boat to this saloon on 11th street you called at? A. I don't know how many blocks it is, I should say about half a mile; all of that probably more.

37 8 X Q. Then if I understand you your attention was attracted by the fire engines going to this fire? A. Yes sir.

9 X Q. Along what streets were they passing? A. Down 11th street.

10 X Q. How many engines did you see? A. Only the one.

11 X Q. How then did you reach your tug? A. By the car, trolley car going down 11th street.

12 X Q. How far from where your tug was moored was it to the Columbia? A. Two blocks.

13 X Q. How long did it take you to make that journey? A. About five minutes.

14 X Q. You could go two blocks with your tug in five minutes? A. Yes sir.

15 X Q. So that if the wind had changed while you were fighting this fire you could have been two blocks away in five minutes could you? A. Yes sir.

16 X Q. How deep was this slip of which you speak? A. Where the ferry boat laid?

38 17 X Q. Yes. A. I couldn't tell you that. Deep enough to submerge her deck.

18 X Q. Not the water, how deep is the slip? A. Oh, why one part of the slip as I remarked a while ago was made in that kind of shape (indicating with thumb and fore-finger); this part of the slip seemed to be the longest.

19 X Q. If it was U shaped one leg was longer than the other? A. Yes sir.

20 X Q. How deep was the slip? A. I should say that slip was probably sixty feet deep, fifty or sixty feet deep I don't know exactly.

21 X Q. How near the head of the slip was the fore part of the boat? A. Why it was jam up; jam up into the slip.

22 X Q. And how was the steamer secured? A. She had chains.

23 X Q. What body of water was this? A. Sir.

24 X Q. What body of water was this? A. It was a body of water of the Potomac river.

25 X Q. How deep at that point? A. How deep at that point?

39 26 X Q. Yes. A. I don't know exactly how deep the water was there, I don't know exactly how deep the ferry boat is, but she went down far enough to submerge her decks.

27 X Q. The rear decks? A. Yes sir.

28 X Q. The fore decks? A. She let the chain down. She

slackened her chain or it would have parted and I think that end went under or very near it.

29 X Q. Did it go under or very near it? A. Very near it.

30 X Q. Isn't it true the forward decks were entirely out of water? A. I don't know, I won't say that. I think the deck that was in the slip that was out of water—I think that was out of water; yes I remember the next morning seeing that out of water. Whether it was on account of the falling of the tide I don't know or whether there wasn't water enough to allow it to go down any further.

31 X Q. What tide is there? A. The tide is about two feet and a half in Washington.

40 32 X Q. As matter of fact the steamer did not part her decks? A. Sir.

33 X Q. As matter of fact the steamer did not part her decks? A. Did not, no sir.

34 X Q. You say if she didn't slack her chains she would have parted? A. Parted the chains.

35 X Q. The steamer herself did not part in any way did she? A. No sir, because they slackened them off and let her settle in the slip.

36 X Q. I understand that you and your boat saved the Columbia; did you? A. Yes sir.

37 X Q. Nobody else did anything? A. The fire department played water on her too.

38 X Q. All that was saved you saved didn't you? A. We did the most.

39 X Q. Most of what? A. The most of it.

40 X Q. When you got down to the wharf where were the fire engines? A. I couldn't see them at all.

41 41 X Q. Why? A. Because I was on the steamboat and I couldn't see any of the fire engines from there to the street.

42 X Q. Do you know how many fire engines were there? A. No sir.

43 X Q. Did you see more than one at any time? A. No sir, didn't see any at all.

44 X Q. At no time? A. The only one was coming down the street, was the only one I saw.

45 X Q. If any fire engine threw any water on that boat you don't know it do you? A. No sir, there was water thrown on the boat besides mine.

46 X Q. There was? A. Yes sir.

47 X Q. How do you know that? A. Because I seen the hose after we got to work.

48 X Q. Do you know how many hose were used by the fire department; how many did you use? A. Two standard size, three inch hose and the other one and a half inch hose.

49 X Q. Used both the same time? A. Yes sir.

42 50 X Q. Do you know there were ten two and a half inch hose used by the fire department on that boat?

Objected to as the witness has already stated that he didn't see any at all.

51 X Q. The number of men you contributed to fight this fire was four wasn't it? A. Four men at the time.

52 X Q. Including yourself? A. Yes.

53 X Q. Did you furnish any more? A. Oh yes some of my other crew came afterwards.

54 X Q. How many men besides your four did you see fighting the fire? A. Why the captain of the steamer lent us a hand after he arrived there and some of the firemen after this shed collapsed, fell down on those men out on the wharf. I think that is how some of those firemen got aboard, after they cleared away that obstruction.

55 X Q. I asked you how many you saw fighting that fire? A. Only three including myself with my hose when we first arrived there, but later on more men gathered on the boat, may be four or five, five or six.

56 X Q. Did you see any firemen on the boat? A. Of the
43 fire department?

57 X Q. Yes. A. Yes sir.

58 X Q. How many? A. Four or five.

59 X Q. Only? A. Might have been more, I say four or five I saw there.

60 X Q. My question is how many; was there four or five men of the fire department fighting the fire on the boat? A. No sir.

61 X Q. Who threw the first water on the Columbia? A. I really don't know whether we threw the first water or the firemen threw the first water, but when we got into the steamboat with our line of hose there was no water thrown on her then to my knowledge.

62 X Q. Are you able to state whether or not there had been three two and a half inch hose from the fire department playing on the boat for half an hour before you got there? A. No sir.

63 X Q. You mean you can't state it? A. I can't state that, I didn't see that.

64 X Q. Don't know whether that is true or not? A. No
44 sir. Half hour before I got there?

65 X Q. Yes. A. No sir, I don't — there were either.

66 X Q. How soon after you arrived was it that you got on board the Columbia? A. As soon as I got my boat in position. I don't think I was more than a minute getting down out of the pilot house and getting hold of the hose.

67 X Q. How long getting in position? A. Two minutes. Went in there and caught the bow line over the end gate that goes across the ferry boat throwed the bow line across that gate, and we throwed our bow line over one part of that gate sticking out and that held our bow and we worked in alongside and got a line over another post there or over a cleat or something. I stopped the boat then and we laid just in that position and when the boat got stopped

I ran right down out of the pilot house and grabbed ahold of the hose.

68 X Q. Then what did you do? A. Ran out on the deck of the ferry boat.

69 X Q. Three minutes after you arrived you were on the 45 ferry boat? A. I think before that not over a minute or a minute and a half.

70 X Q. What kind of a night was it? A. What kind of a night was it?

71 X Q. Yes. A. Right dark night.

72 X Q. No moon or stars? A. I don't remember seeing any now.

73 X Q. Were there any lights on the wharf; electric lights? A. No sir, not to my knowledge.

74 X Q. Was the fire of the steamer sufficient to light up the surrounding locality? A. That made quite an illumination.

75 X Q. Couldn't see any fire engines? A. No sir.

76 X Q. No firemen working? A. No sir.

77 X Q. How long after was it you first saw there an engine or fireman working? A. We had been working there at least twenty minutes to a half hour before I saw any firemen on the steamer.

78 X Q. How long had you been there before you saw any 46 firemen on the wharf or in the vicinity? A. About twenty minutes to a half hour before I saw any firemen at all. They may have been around on the wharf but I couldn't see them.

79 X Q. When this engine went by this saloon at which you were, what speed was it making? A. What speed was it making?

80 X Q. Yes. A. It was going down pretty fast.

81 X Q. So far as you know didn't get there until half of an hour after you got there? A. I don't know that sir, I got on the next car and went down after the engine. I don't know where the engine located itself at in the city.

82 X Q. What's that? A. I say I don't — where the engine located itself at in the city.

83 X Q. When you saw it it was going past this saloon to the fire? A. Yes sir.

84 X Q. So where it located wouldn't make any difference, if it got to the fire? A. There was an electric car coming right down 47 11th street right behind this engine and we ran out of the saloon, the mate and I, and got this car. It was the only car I seen going down behind the engine.

85 X Q. Where did you get off that car? A. Down at Water street.

86 X Q. And where was the fire engine then? A. They had gone down Water street.

87 X Q. Gone on ahead of you? A. Yes sir.

88 X Q. How far was it from where the street car stopped to where your tug boat was? A. About half a block away and we got off at the foot of 9th street.

89 X Q. Half a block from your tug was it? A. Yes sir.

90 X Q. You and your mate were together? A. Yes sir.

91 X Q. Nobody on the tug then but the deck hand and fireman? A. Oh yes the engineers both of them and the fireman.

92 X Q. How soon after your arrival did you see the captain fooling around as you expressed it? A. The captain of the Columbia?

93 X Q. Yes. A. We might have been there, I don't
48 know exactly how long before I seen the captain—I think
the captain was the first man I did see on the steamboat.

94 X Q. How is that? A. I say I think the captain was the first man I did see on the steamboat, after we had got to work.

95 X Q. When did you first see Mr. Padgett and Mr. Sutton? A. Didn't see them until after the steamer had sunk, and I had changed the position of my boat and come alongside of the wharf. We got out on a wharf and drunk coffee. They had coffee and sandwiches that is when I met Mr. Padgett and Mr. Sutton, or their friend and chief Mr. Wagner of the fire department.

96 X Q. Who sunk the steamer? A. I consider we sunk her. The fire department might have helped because they got to throwing water too after they got to work.

97 X Q. If it be true that there were seven fire engines and ten two and a half inch hose of the fire department playing on that boat from before you arrived until she sunk would you still consider you sunk her? A. If ten were playing on her before we got there?

98 X Q. Ten hose and seven engines? A. No I wouldn't
49 consider they did the most good then. They weren't in the position to do the work I did. They were playing out on the blaze, my water was going down in the boat.

99 X Q. What became of the water that was played on the blaze? A. That would run back in the river, down on the house in the boat and drip down the sides.

100 X Q. Wouldn't any of it go down the hold? A. Yes sir, some of it would. Some would strike the decks and that would go down into the water.

101 X Q. What necessity was there for having your tug so near the steamer that when the latter sank she would catch your guard? A. Why we couldn't lay any other place, and get any closer. I wanted to get as close as I could.

102 X Q. Why? A. So as to get aboard of her.

103 X Q. This end that projected out into the river was that burning? A. This end that projected out in the river there wasn't any fire on at all and we kept the fire from getting on that end by lying there and fighting it with our water.

104 X Q. That is the only answer you can give me as to
50 why your boat lay so close the steamer in sinking would catch your guard? A. We made fast to the steamer, we made fast to the steamer because it was a handier place to fight the fire.

105 X Q. When did you last see the Columbia? A. Haven't seen the Columbia since the next morning after the fire.

106 X Q. Still sunk then was she? A. Yes sir.

107 X Q. Never have seen the engines or machinery since the fire? A. I looked at her very good after the fire.

108 X Q. Looked at what? A. The engines and boiler.

109 X Q. How much could you see? A. As much as was sticking out of the water.

110 X Q. How much was that? A. A good portion of her was sticking out; could see her engines and the boilers.

111 X Q. This book which has been shown you as a log, what book is that? A. Book we had aboard the Sarah.

51 112 X Q. How long had you had it aboard the Sarah? A. Six months before that fire occurred.

113 X Q. How long after did you have the book? A. We had that book aboard there clean up until the Sarah was sold.

114 X Q. What did you use the book for? A. Writing logs, taking memorandums and when running in thick weather.

115 X Q. Please take this book and show any other log in it? A. There is no other log in that sir, only of this proceeding.

116 X Q. So that for six months prior to this fire until the boat was sold there was no log in it except the one made on that occasion? A. No sir.

117 X Q. When was this log made? A. Made that day.

118 X Q. What day? A. Next day, no the log was started when we entered the Potomac river, the day of the fire—the day before the fire rather.

119 X Q. When did you first see the log? A. Sir.

52 120 X Q. When did you first see the log? A. When did I first see the log?

121 X Q. Yes. A. When I entered the Potomac river.

122 X Q. What occasion had you for seeing it on that day? A. On account of anchoring those two vessels that day and getting under way the next morning the time we did and arrived in Washington.

123 X Q. Had you never anchored any vessels for six months before this fire? A. Oh yes sir.

124 X Q. Had you never left Alexandria before for six months before this fire? A. Yes sir.

125 X Q. Why is it that you made a log of this particular occasion and not of the others? A. Because we don't have a fire every time and I wanted a memorandum of it.

126 X Q. You don't have a fire every time do you—you didn't know there was to be a fire when you commenced this log; how do you explain that you commenced this log? A. I wanted to keep a memorandum of that day's proceedings and also of the fire.

53 127 X Q. Why? A. Why because I wanted to keep a memorandum and I wanted that to refer to.

128 X Q. For what purpose? A. For to memorize it easily.

129 X Q. What for? A. Something might occur to it.

130 X Q. What might? A. Something like this.

131 X Q. You made this log because you thought there might be a loss suit growing out of the fire? A. Yes sir.

132 X Q. That was the reason this log was kept and no other was? A. Yes sir.

133 X Q. Whose business was it to keep the log? A. The mate's.

134 X Q. Why didn't he keep the logs on other occasions? A. On other circumstances we did use to keep logs.

135 X Q. How is it that they are not in this book? A. Used to keep them on slates. If we started away from here in thick weather we took the time we left and put it on the slate.

54 136 X Q. Why didn't you keep this one on the slate? A. We wrote that in pencil.

137 X Q. Why didn't you keep this one on the slate as you ordinarily did? A. Because we wanted to put it in that book so we could see it.

138 X Q. You wanted evidence in case you had a suit over this fire? A. Yes sir.

139 X Q. Who told the mate to keep this in pencil? A. I did sir.

140 X Q. When? A. The next day.

141 X Q. Why did you tell us a moment ago this log was begun before the fire? A. I did say that log was begun before the fire—from the time we anchored in the river and got under way and that night's proceedings too; he didn't put them down about the fire until the next morning.

142 X Q. Did he put anything down before the next morning? A. Oh yes, the time we anchored in the river that was all down before the next morning.

55 143 X Q. How many times have you anchored in the river within six months before this fire? A. I don't know sir, I don't make a practice of anchoring in this river.

144 X Q. How many times have you been in that river? A. I don't know sir.

145 X Q. Why has there been no other logs? A. Because we don't anchor in that river, and we kept no log of it then.

146 X Q. When did you first see this log Captain? A. I first seen it the first day we anchored.

147 X Q. Where did you see it? A. Aboard the Sarah.

148 X Q. Where was it when you saw it? A. In the pilot house.

149 X Q. Was this book kept in the pilot house? A. Yes sir, pilot house and my room together.

150 X Q. Which? A. Generally kept it in my room in the drawer.

151 X Q. How did it get into the pilot house? A. I took it in there to write it.

152 X Q. Who? Me and the mate.

56 153 X Q. Who took it there? A. The mate I reckon got it
that day.

154 X Q. Had you ever taken it in the pilot house before
that? A. Yes sir.

155 X Q. What for? A. To write in.

156 X Q. Write what? A. To write a log up.

157 X Q. Show us a log written in it before that date? A. There
is no log in here of any other days proceeding.

158 X Q. Why did you tell us you took it in there to write logs
in before this date? A. I told you I have taken books in there.

159 X Q. What if anything did you have to do with the writing
of this log? A. Nothing at all only to give it to the mate to write.

160 X Q. Give what? A. The book, give it to him to write in.

161 X Q. Didn't tell him what to put in it? A. No sir.

162 X Q. Did you look, at it as he was writing it to see what he
was writing? A. Got him to read it off.

57 163 X Q. Before it was finished or as he went along? A.
As he went along.

164 X Q. So this is yours and his joint work is it? A. Yes sir.

165 X Q. (Quoting from log) "Discovered fire on the Stmr. Colum-
bia about 9.25—p. m.;" did you do that? A. Did I do what?

166 X Q. Did you discover fire on the steamer Columbia about
9.25—p. m.? A. Yes sir.

167 X Q. Where were you? A. Aboard the Sarah then, that is
on the street after we got off the car.

168 X Q. By discovered then you mean you saw it? You knew
there was a fire when you were up at this 11th street saloon? A.
When we saw the engine go by we supposed there was a fire some-
wheres, we didn't know just where it was.

169 X Q. Whom did you rescue from this burning steamer? A.
Well you might call it rescued—the captain of the steamer with
some of the firemen got off the steamer when she went down before
the tug boat.

170 X Q. You say here in this log "When she sank we rescued
or took them off the burning steamer on tug Sarah;" who
58 was it you rescued and took off? A. The captain of the
steamer and some of the firemen of the fire department—I
don't know their names sir.

171 X Q. What did you mean by the word "rescue"? A. Took
them off the steamer aboard of the tug Sarah.

172 X Q. Did you take them? A. I didn't carry them they got
aboard themselves.

173 X Q. You simply mean they got from the steamer aboard
your tug? A. They couldn't have got on the wharf without swim-
ming or wading, it might have been over their heads.

174 X Q. And what you mean by your rescuing them was they
got off the steamer on your tug? A. Or they would have to go over-
board or wade to the wharf.

175 X Q. When you say you rescued those men you simply meant they got off the steamer and got on the tug? A. Yes sir.

Counsel for the libelant objects to the witness being asked the meaning of the word because the word speaks for itself.

(Mr. DARLINGTON:) The sense in which the witness uses it
59 does not speak for itself.

Re-direct examination.

(By Mr. ABERCROMBIE:)

1 R. D. Q. Captain Cannon if there had been ten streams of water playing on the Columbia when you got there don't you think you would have seen it or felt it? A. I certainly do, yes sir, I certainly do; from the position I was in I would certainly have seen some of those streams or felt some of them.

2 R. D. Q. While you were fighting the fire after arriving there for the first short while did you observe any streams of water? A. Yes sir. After we had got there and got to work. As I said I think there was about fifteen or twenty minutes then I seen water pumped on the fire from the wharf over on our heads and all over us; from the wharf—none from the river, all seemed to come from the wharf.

3 R. D. Q. Captain Cannon did it look as if when you got there they had been playing the hose on the Columbia for a half an hour? A. No sir, no sir, and I don't believe they were sir. I don't think they were and I didn't see any when I got there. The inside
60 of the pilot house was all afire and all around that light joiner work and that gave us an opportunity to get on this end out in the river and there wasn't any water coming over on us then.

4 R. D. Q. If they had been playing ten streams of water on the Columbia for a half an hour before you got there what do you think of the efficiency of that water to put out the fire? A. It would have put it out—for a half an hour ten streams of that size.

5 R. D. Q. Let us assume that they had been playing for a half hour, what was the result? A. The hamper was all of a light blaze and was working toward the windward end of the steamer, but we had got to this end of the boat and run our line of hose up and played up underneath that blaze until all that inside pilot house collapsed and went down on the forward deck. That drove the fire down around the engine and boiler room; then it was I saw the streams of water coming from the wharf. Two streams it looked like to me, one from where the harbor police boat lies. There was a stream appeared to be from her and another from the wharf
61 where they drove down. To my knowledge that is the only streams I seen from the wharf and that was after this inside pilot house had collapsed and fallen down on the forward deck. I saw these two streams.

6 R. D. Q. If it is true that ten hose of water had been playing on the fire, had been—

Objected to as argumentative and leading and not proper evidence.

7 R. D. Q. Who was it discovered the fire on the Sarah—who on the Sarah discovered the fire on the Columbia? A. My engineers after I got out of the car, my engineers was waiting for me to give him some orders. He said the Columbia is on fire and I says I see it get your hose ready.

Counsel for respondent objects to conversations between the witness and his engineer as not being competent.

8 R. D. Q. Well Captain go on. A. After I let the lines go and started down the mate and the fireman took and got those two lines and hose out and connected them together and by the time they were connected the Sarah's bow was inside of this ferry boat ready to fight the fire.

62 9 R. D. Q. Captain what is the necessity of keeping a log on the Sarah? A. Why when we are running in a fog or thick weather we keep a log—we don't keep it every day only when we start from Baltimore down to the capes, we keep this log so we know the time and keep this log in order to locate where we are. When anything like this occurs we generally keep a log of it.

10 R. D. Q. Your log is only kept under occasional circumstances? A. That is all sir.

Re-cross examination.

(By Mr. DARLINGTON :)

1 R. X Q. And the only occasional circumstance you had for a log during the time you say your book was on the boat was this fire was it? A. Yes sir.

2 R. X Q. Your opinion is that ten streams would have put out the fire in half an hour without your assistance? A. I should say so—the size you say.

3 R. X Q. What size have I said? A. Two and a half inches you said.

(Mr. DARLINGTON :) That's right, that's all.

(Mr. ABERCROMBIE :) Then in your opinion if these ten streams had been playing on the fire for half an hour before you got there, the fire ought to have been out?

A. Yes sir, but if anything the fire was worse.

LEWIS E. SPEDEN, a witness of lawful age, produced on behalf of the libelant, first having been duly sworn, testified as follows:

Direct examination.

(By Mr. ABERCROMBIE :)

1 Q. Please state your full name? A. Lewis E. Spedden.

2 Q. What is your occupation? A. Mate of the tug boat Sarah.

3 Q. How long have you been on the Sarah? A. Two years and nine months.

4 Q. Who is the owner of the Sarah at the present time? A. Frank A. Furst and Charles E. Nelson.

5 Q. Who are they? A. Representing the Maryland Dredging Company—president and general superintendent.

6 Q. Who was the owner of the Sarah in May last? A. The James Clark Company.

7 Q. Who is the James Clark Company? A. Winfield S. Cahill is the president of it.

64 8 Q. Is it a corporation? A. It is a corporation, yes sir.

9 Q. Do you remember last May the time of the fire on board the ferry boat Columbia in Washington? A. Yes sir, I remember it.

10 Q. Were you on the Sarah then? A. I was on the Sarah then, yes sir.

11 Q. Where was the Sarah lying at the time? A. At the foot of 9th Street wharf.

12 Q. How did you happen to be there? A. We tied a vessel up there and we put her there in 9th Street wharf and we stayed there the balance of the night until the fire was out.

13 Q. Were you on the Sarah when the fire broke out on the Columbia? A. Yes sir, I was on the Sarah.

14 Q. Were you aboard? A. I wasn't exactly aboard when the fire broke out.

15 Q. Where were you? A. Up the street.

16 Q. How did you know of the fire? A. We heard it that a fire was down on the water front and saw it by the engine going 65 by—fire engine to the water front.

17 Q. Who were you with? A. Captain Cannon.

18 Q. What did you do? A. We came right down right behind the engine; followed the engine right down to 9th street, let go the line and proceeded to the fire on the Columbia.

19 Q. How did you go down? A. On the electric car.

20 Q. What did you do then? A. Let go our line from the 9th Street wharf and proceeded to the steamer Columbia where the fire was at.

21 Q. How long do you think you were getting to the fire from the 9th Street wharf to where the Columbia was, foot of 7th street? A. Don't think we were over two or three minutes—two minutes, two squares, two blocks.

22 Q. How long after you got to the Columbia were you in getting a hose out on her? A. Getting a hose on the fire?

23 Q. Yes. A. I suppose not over two minutes getting a hose on the fire.

66 24 Q. Was everything in readiness on the tug? A. Everything was in readiness.

25 Q. Hose already attached? A. Hose already attached to the pump.

Question objected to as argumentative.

26 Q. So that when you landed at the Columbia—— A. We ran right aboard with our hose on the main deck.

27 Q. What hose did you have? A. They say they are three inches, I never measured them.

28 Q. What other hose did you have? A. That is all the hose that was played on her at that time. We have an inch and a half hose of 100 feet.

29 Q. Now please state Mr. Spedden what you did when you arrived at the Columbia and took the hose aboard; how did you fight the fire? A. Fought the fire first all around the smoke stack and upper works and put that out and then we turned our attention down to the lower engine room around the boiler, where the fire had gotten a headway there.

30 Q. What portion of the vessel was on fire when you arrived?

A. The upper deck, upper house.

67 31 Q. What do you mean by the upper house? A. Upper house from the main deck, salon.

32 Q. You mean with reference where the wagons and vehicles come in above that? A. Above that, yes.

33 Q. In respective to lengthwise of the vessel as she lay at the wharf what part of the vessel was afire? A. The sides of her house.

34 Q. The fire was confined to above was it? A. The fire was confined above.

35 Q. And where did you direct your efforts first? A. We directed our efforts first above until the fire got down below, down in the lower engine room on both sides and around the boiler room, then we directed our hose there.

36 Q. How did you get down to the engine room? A. There is a gangway there.

37 Q. Where were you in reference to that gangway? A. Pretty close to it on the lower deck, main deck of the steamer.

38 Q. Well how did you succeed? A. We succeeded in putting the fire out down there.

39 Q. In the engine room? A. In the engine room—lower engine room.

68 40 Q. What else did you do Mr. Spedden with reference to the fighting of the fire at that time? A. Well we sunk the steamer by playing water on the fire.

41 Q. How did you accomplish that Mr. Spedden? A. By play-

ing water in the hold of the steamer, lower engine room and boiler room.

42 Q. When you first arrived on the Columbia who did you find on the steamer? A. No one.

43 Q. See any of the fire department? A. Not one of them.

44 Q. How long was it before anyone came on the Columbia? A. At least half an hour if not more before I saw anyone.

45 Q. Who did you first see? A. Saw some gentleman, I didn't know who he was, he didn't belong to the fire department.

46 Q. You didn't know who it was? A. I didn't know who it was, no sir.

47 Q. Would you recognize him now? A. No, I wouldn't recognize him.

48 Q. Who else came on? A. After that the firemen came.

69 49 Q. How many? A. Three or four, I won't say which, but not over four.

50 Q. During the whole fighting of the fire on the Columbia how many men including yourself and the crew of the Sarah were on the Columbia that you saw? A. I think five besides our crew.

51 Q. Five besides your crew? A. Five besides our crew.

52 Q. How long were you engaged in fighting the fire? A. About two hours, 2.10 something like that on the main body of the fire until the boat sank.

53 Q. What time did she sink? A. About 11.45.

54 Q. Did the sinking of the Columbia take place merely from the water that came from the Sarah?

Counsel for the respondent objects to the question as leading and will object to the reading of the answer for the same reason.

Question withdrawn.

Objection withdrawn.

55 Q. What other water went into the hold of the Columbia besides water from the Sarah? A. Well some from the fire engines. We could feel a small stream striking us on the lower deck of the Columbia.

70 56 Q. Well was there any other water? A. That is all I know except what went from the deck, sir.

57 Q. Did she take in any water from the river? A. Well I couldn't say about that. I don't know whether she had any ports open or not; I heard she had some ports open.

58 Q. You don't know? A. I don't know. The ports are just about eighteen inches or two feet above water, but of course I don't know that.

59 Q. If she had ports there and they were open she would take in water from the river? A. Yes sir, if they were open, but of course I don't know that.

60 Q. How many streams of water did you see or did you feel that were coming on to the Columbia from the fire engines? A. Fire department?

61 Q. Yes. A. Only one.

71 62 Q. Did you see any streams that were playing on the Columbia? A. No, I could feel them, but I couldn't see any.

63 Q. Could you see any of the engines of the fire department? A. No sir, never saw an engine.

64 Q. Were you in a position that you could see them? A. No we weren't in a position we could see them.

65 Q. Why not? A. Those buildings hid us from view from the engines.

66 Q. The fire made quite a light? A. The fire made quite a light, yes sir.

67 Q. Was or was not the fire between you and the engines of the fire department? A. The fire was between us and the engines of the fire department.

68 Q. How far away was the street from the Columbia? A. Well to the bow of the Columbia I suppose two hundred feet or more—all of that, might be 250 from the bow of the Columbia up to the wharf.

69 Q. Do you know where the engines were located? A. No sir, don't know where the engines were located.

72 70 Q. Didn't see any at all? A. Didn't see any at all.

71 Q. Didn't see any on the wharf? A. Didn't see any on the wharf.

72 Q. Did you see the shed fall in there? A. No, I didn't see it fall, I saw it after it had fell.

73 Q. How long do you think you were on the Columbia before the men of the fire department came there? A. Fully a half an hour.

74 Q. Why was it do you think the firemen were not on the vessel before this?

Objected to as not calling for evidence, but calling simply for an opinion of the witness.

Objected to further because there is no evidence they couldn't come on board of the Columbia.

A. Because the shed collapsed with them. After they had their hose there the shed collapsed right on the hose.

75 Q. Was the wharf and shed on fire? A. Yes, the wharf and shed was on fire.

76 Q. Which way did the fire seem to be traveling, how was the wind that night? A. There was very little air, not over a mile, from the south.

73 77 Q. Which way was it carrying the fire? A. Carrying it nowheres hardly, but a little to the north'ard though; it was from the south and such a light breeze you couldn't hardly discern there was a breeze.

78 Q. Was the fire burning on the wharf and on the Columbia at the same time? A. Yes, both burning at the same time.

79 Q. What danger were you subjected to Mr. Spedden? A. We

were subjected to falling timbers from the steamer from the main deck on ourselves.

80 Q. Were you hurt in any way? A. As it happened we weren't hurt. It was dark though we couldn't see, there was so much burned debries around there; danger from falling down a hatch-way or something or a burnt hole in the deck.

81 Q. What danger was the tug in? A. Danger of catching fire and in danger when the steamer sunk of pulling her over.

82 Q. Did you see the steamer catch on the gunnel of the tug? A. Yes sir, I saw it catch on the gunnel.

74 83 Q. How far over did it carry her? A. Over about a foot—twelve inches.

84 Q. How was she released? A. Released by working her engine.

85 Q. Were you on the Columbia when she sunk? A. Yes sir, just jumped aboard when she went down, jumped aboard the tug boat as she went down.

86 Q. Who went on the tug boat with you? A. Four firemen and that gentleman I was speaking about—I don't know who he was.

87 Q. Besides your crew? A. Besides our crew.

88 Q. How long were you engaged on the ferry boat fighting the fire altogether? A. Well we were about two hours and a half.

89 Q. About two hours and a half? A. About two hours and a half.

90 Q. Captain Spedden do you know anything of the value of the Sarah? A. Well she is valued at about \$20,000.00.

Objected to on the ground that no qualification of the witness to testify as to values has been shown.

75 91 Q. Mr. Spedden what do you think would have been the result to the Columbia if the Sarah had not been there and performed the services she did?

Objected to as calling not for evidence, but for the opinion of an interested witness.

A. What do I think?

92 Q. Yes. A. I think she would have been a total loss.

93 Q. Why do you say that? A. I don't think there was enough fire engines there to save her with the streams they were playing on her of which there was only one—only one I felt.

94 Q. Well was she in such a position the fire department could get to her? A. She was in such position they couldn't get to her.

95 Q. How do you account for that? A. By the collapse of that building or shed.

96 Q. What was the position of the Columbia with reference to the line of Water street; did she lay parallel to the wharf or was she at an angle? A. At an angle of about 45 degrees out in the stream. Of course she was lying parallel, right straight, there was

a little pier here (indicating) that forms a pen and she was lying at an angle in the river. This pier was on her port side.

76 97 Q. What was on the starboard side? A. I didn't see anything on the starboard side except some piles that formed the pen.

98 Q. Where did you tie to? A. Tied to her starboard quarter.

99 Q. How old is the Sarah? A. Four years old this coming March.

100 Q. Did you have any of your personal belongings injured? A. Yes, some of my clothes were injured.

101 Q. What was the value of them? A. Of course it was a cheap suit, the value would be about \$10.00.

102 Q. Mr. Spedden is that the log of the Sarah? A. Yes sir.

103 Q. Is that in your handwriting? A. That is in my handwriting sir.

The introduction of this so-called log is objected to it being merely and evidently an *ex parte* statement made after the fire and intended for the purposes of evidence. I have no objection to having the so-called log copied into the record in lieu of filing the book at this time, the proctor for the libelant having said he will produce
77 the book at the hearing.

104 Q. Is that in your handwriting? A. Yes, sir, that is in my handwriting.

105 Q. When was that entry made? A. Entry made on the 14th day of May.

106 Q. Was the whole of it made on the 14th day? A. Whole of it made on the 14th day.

107 Q. That was the day after the fire? A. That was the day after the fire.

108 Q. Is it customary on your tug to keep a log? A. No sir, it is not customary.

109 Q. Why did you do it in this instance? A. If anything very important happens we generally keep a log of it; anything important.

Cross-examination.

(By Mr. DARLINGTON:)

1 X Q. Mr. Spedden you have been mate of this tug three years and nine months? A. No, two years and nine months.

2 X Q. Is that up to this time? A. Up to the present time—I might be a few days out of the way.

3 X Q. At the time of the fire then you had been mate
78 something like two years? A. Two years and one month, very near a few days of it.

4 X Q. How do you know the Clark Company is a corporation? A. I don't know it, I always think it is a corporation company. It is an old firm and been incorporated I think.

5 X Q. How do you know the tug belonged to it in May 1903?
A. Go by her papers—license.

6 X Q. What license? A. Boat's license.

7 X Q. What's that? A. The tug boat's license. It read the James Clark Company sole owner of her.

8 X Q. Where did you see that license? A. Aboard the boat.

9 X Q. You say you were up street at the time you heard a fire was on the water front. A. Yes sir, up the streets.

10 X Q. What do mean by up the streets? A. Up the streets in Washington.

11 X Q. Can you give us any more distinct statement where you were? A. In a bar-room getting a drink.

79 12 X Q. Where was the bar-room? A. I don't know; I know it was in Washington on the street there.

13 X Q. I am asking you where the bar-room was? A. Couldn't tell you exactly, foot of 11th street.

14 X Q. How far up? A. Two or three blocks maybe.

15 X Q. Two or three blocks of what? A. Two or three blocks of the street.

16 X Q. From what? A. From the wharf.

17 X Q. Wasn't you up within one block of Pennsylvania avenue? A. No, I didn't see Pennsylvania avenue.

18 X Q. Not within one block of Pennsylvania avenue? A. Not that I know of; I am not very well acquainted in Washington.

19 X Q. What had this boat been used for for the two years and one month prior to the fire? A. General towing.

20 X Q. Where? A. Chesapeake Bay and tributaries.

21 X Q. Had you been to Washington before? A. Yes, sir.

80 22 X Q. How often? A. Hadn't been there since last June was a year.

23 X Q. You had been there the June before the fire then? A. Yes sir.

24 X Q. How often had you been altogether to Washington with the tug Sarah if you know? A. I don't think I have been there over four or five times since I have been on her.

25 X Q. How many times before the fire? A. Four times before the fire; haven't been there since the fire.

26 X Q. Haven't been there since the fire? A. No, haven't been there since the fire.

27 X Q. How did you hear there was a fire on the water front? A. Heard it on the street.

28 X Q. From whom? A. From the men who hollered; I don't know who from.

29 X Q. Did you see the fire engine go by? A. I saw the fire engine go by, yes sir.

30 X Q. How many? A. Only saw one.

31 X Q. Where was that engine last time you saw it? A. On 11th street that was the last time I seen it.

34 . JAMES CLARK COMPANY OF BALTIMORE CITY, ETC., VS.

81 32 X Q. When it went past the bar-room? A. When it went past the bar-room; never seen it no more.

33 X Q. You came out of the bar-room then—had you had your drink? A. Had part of it didn't have all.

34 X Q. Did you get the rest? A. No, didn't get the rest.

35 X Q. You forgot to prove that loss when you stated your damages? A. That was a small loss.

36 X Q. What did you do when you came out of the bar-room? A. Took an electric car and came down to the foot of 9th street.

37 X Q. Is this bar-room on the corner or in the middle of the block? A. On the corner of a street.

38 X Q. Was the car waiting for you when you came out of the bar-room? A. No sir, the car wasn't waiting for us.

39 X Q. You were waiting for it? A. We didn't have to wait long, it was only half a block away—half a square.

40 X Q. I understood you to say you used only your three 82 inch hose at the fire? A. At the main body of the fire.

41 X Q. When did you use the one and a half inch hose? A. After the steamer sunk putting out sparks here and there on some of the upper works and also on the wharf property too.

42 X Q. What had become of the fire engines at that time? A. I hadn't seen any. They had gone—if they hadn't gone they were not throwing any water.

43 X Q. Did you see any fire engines at all? A. No, I didn't see any fire engines at all.

44 X Q. And you only saw one stream of water? A. Only one.

45 X Q. And that was a small one? A. Seemed to be small the way it fell on me, it didn't feel very heavy.

46 X Q. As large as your one and a half inch hose? A. It might have been as large as that.

47 X Q. Do you think it was? A. Yes I think it was as large as that.

48 X Q. You say you were the ones that sunk the steamer—did you? A. Well we throwed a lot of water in there to sink her.

49 X Q. Referring to your testimony-in-chief "We sunk 83 the steamer;" you mean you and Captain Cannon and your deck hand? A. I think we were the cause of it by putting the fire out and sinking her that way.

50 X Q. How did you sink her? A. By playing water into her.

51 X Q. How long had you been playing with your hose on the steamer before you knew anybody else was doing so? A. At least half an hour.

52 X Q. What buildings are these you speak of as hiding the fire engines from your view? A. I don't know what buildings they were—on the street, on the other wharf, I don't know what buildings they were.

53 X Q. You mean the engines were north of Water street and out of view behind the buildings? A. I didn't see any.

54 X Q. How do you know the buildings hid them from view?
A. I could see the buildings, but I couldn't see the engines.

55 X Q. Where was the Columbia? A. She was in the 7th street pen.

84 56 X Q. Will you describe it? A. Runs in like this way (indicating).

57 X Q. Indicate it on paper (handing witness paper to be hereafter designated as Libelant's Exhibit Spedden No. 1). A. Here is a pen—here is a little pier.

58 X Q. Write letter A where the pier is. A. That is the pen.

59 X Q. Where the P is? A. Where the P is. Here is the office.

60 X Q. Write office. A. And here are a lot of buildings up here.

61 X Q. Just say where, write buildings. A. This is Water street, I believe they call it; is it or not?

62 X Q. Yes, write street on top of that line. A. Here is the gangway that runs out to the street.

63 X Q. Make it heavy so that you can see it and put the letter G there. A. And here was a lot of buildings over here.

64 X Q. Write buildings. A. Running down with the street. While at the head of this pen there was a shed here.

65 X Q. Which end of that pen is what you call starboard?
85 A. This end.

66 X Q. Write starboard. And the pen was substantially in that shape, one leg longer than the other? A. Yes sir, this is the long leg projects to the westward.

67 X Q. The long leg is on the west side? A. The long leg is on the west side.

68 X Q. Where was the boat lying? A. Right in this pen sir with her bow up here.

69 X Q. Put a cross mark where her bow was. How wide was the pen? A. Oh I don't know, I don't know how wide the steamer is. I reckon she is 40 to 45 feet beam.

70 X Q. The pen is how much wider than the steamer? A. This end takes up all the steamer—bow end; and this is a little wider, of course she gets wider as she comes back to midships.

71 X Q. At the entrance of the pen when the steamer was in position what margin would there be between the side of the pen and the steamer? A. Well there wasn't any here on this side; this side I don't know how much.

86 72 X Q. None on the west side? A. None on the west side.

73 X Q. Don't you know how much on the east side? A. No, I don't know how much; she was lying against the pier here; on the east side of the pier formed the pen.

74 X Q. There was on space where you have written A on the west side? A. No sir.

75 X Q. Now write X on the east side; what was there up here (indicating)? A. What was up here; how do you mean?

76 X Q. What was this space out here? A. That is the Potomac river.

77 X Q. The Potomac river didn't run up alongside of this slip did it? A. The Potomac river ran up alongside of this pen; this projects out at an angle of about 45 degrees.

78 X Q. What is between P and A on this sketch you have made; what was in there? A. There was a pier between there.

79 X Q. What do you mean by pier; a wharf or platform. A. A small wharf.

87 80 X Q. A then is a wharf? A. Yes sir.

81 X Q. What is on the starboard side where you have written X? A. Bulk-head of the street and a shed out here, building; I don't know what kind.

82 X Q. What is at X? A. Water there.

83 X Q. When did this shed you speak of collapse? A. I don't know; I couldn't tell you exactly. I didn't see it collapse, I saw it afterwards.

84 X Q. Do you know what it was being used for at the time it collapsed? A. No sir.

85 X Q. Don't know whether the firemen had been under on it throwing water on the vessel from that point? A. No sir.

86 X Q. Were you on the starboard or larboard side of the pen? A. Starboard side; she stood right on this quarter?

87 X Q. The starboard quarter? A. Yes sir.

88 88 X Q. What was there over on the port side or wharf A? A. Wasn't nothing then.

89 X Q. How do you know? A. Could see there.

90 X Q. Wasn't anything there? A. No sir.

91 X Q. No men there? A. No sir.

92 X Q. No men there at all? A. No sir, not when I got there.

93 X Q. Could you see where the shed was? A. I did see it afterwards.

94 X Q. When you got in position on the starboard quarter could you see where the shed was? A. No, I couldn't see that from the steamer.

95 X Q. Why? A. Because I was on the steamer's deck.

96 X Q. How could you see the pier across the steamer on the other side? A. The pier projected out to the end of the steamer; to the port side of the steamer.

97 X Q. When you were on the starboard quarter of the steamer you couldn't see through it to the shed on this side? A. Oh yes I could, the gangway shows all open forward. We were lying in this position (indicating) and it shows all open. This angle (indicating) on the steamer's starboard quarter, we could see right across here—it is all open on the steamer.

98 X Q. How much of that pier could you see from your position on the starboard quarter? A. How much of pier A?

99 X Q. Yes sir. A. 30 to 40 feet of it.

100 X Q. And you saw no one there? A. No sir, I saw no one there.

101 X Q. You say it is 200 feet from the street to the bow of the Columbia? A. It is about 200 feet to the best of my knowledge.

102 X Q. What was in there? A. I didn't see nothing in there because I wasn't up there to see anything.

103 X Q. What is in there water, land or wharf? A. Wharf, driveway for passengers.

104 X Q. 200 feet driveway is there between the bow of the steamer and the street? A. Yes sir, I should say there was 200 feet.

105 X Q. How far down on the shorter leg of the slip as you have drawn it did that driveway extend? A. On the shorter leg of the slip?

90 106 X Q. Yes. A. Down this way?

107 X Q. Yes. A. Didn't extend no way down here. Here was a shed here (indicating). Here was the driveway from the bow of the steamer.

108 X Q. And there was no platform or wharf south of the shed? A. I didn't see any platform or wharf; platform—here—south of the shed?

109 X Q. Yes. A. Yes, there is a platform here from this point to the steamer to get off—from the pilot house or something.

110 X Q. That was boarded over so that wagons go drive along there? A. No, it wasn't boarded over so wagons could drive, might be boarded over so a man could walk.

111 X Q. Was there any boarded space or platform south of the shed on which wagons could be driven? A. I didn't see any at all.

112 X Q. Do you know whether there was or not? A. No, I couldn't say for certain whether there was or not; I didn't see any.

91 113 X Q. You don't know how long you had been at work there before the shed collapsed? A. No, I don't know how long we had been there before the shed collapsed.

114 X Q. Why did you say the firemen couldn't come on the pier before the shed collapsed? A. That was only a supposition that the firemen couldn't come on the pier.

115 X Q. What did you say the breeze was blowing? A. I guess about one knot an hour from the south.

116 X Q. From the south? A. Yes sir.

117 X Q. Due south? A. I didn't look at the compass.

118 X Q. But substantially? A. South or southwest.

119 X Q. Which way did that blow the flame? A. To the north'ard.

120 X Q. East or west? A. Blowing right straight up, a little on an angle like.

121 X Q. And the diagonal which way? A. Little to the westward by north on a diagonal line.

92 122 X Q. Where was the burning of the wharf which you spoke of? A. It was all along this part here (indicating at A); burning underneath, mostly underneath.

123 X Q. What evidence of fire above the board-walk or platform of pier A was there? A. What's that?

124 X Q. What evidence of fire above the board-walk or platform of pier A was there? A. Well I didn't see no sign of fire after that shed collapsed, because the fire had been put out there. I didn't go up to the shed and wasn't up there until the next morning.

125 X Q. This burning of the pier you spoke of was the piles underneath? A. Yes piles underneath and plank.

126 X Q. You spoke of the danger from falling timber; did it differ at all from the danger to firemen going into a burning house on shore? A. Well of course there is danger both ways. In both you are in danger.

127 X Q. The danger would be the same wouldn't it? A. The danger would be the same only it might be a little worse there on account of some heavy timber or iron; I don't know what it was, it was a big column.

93 128 X Q. It would be the same danger in a house with heavy beams in it wouldn't it? A. I don't know whether there would or not.

129 X Q. Was there any difference in the danger from going on this steamer while burning and playing on the fire, from danger in going into a house while the fire is burning? A. I don't know anything about danger in a house, I never played on a fire in a house; that is for the firemen to do.

130 X Q. The only danger you have mentioned while you were on board the steamer was the danger from falling timber? A. The danger from falling timber and from falling down the hatchways and through the deck.

131 X Q. Did you see any hatches? A. One.

132 X Q. Open or shut? A. Partly open.

133 X Q. By what light did you see it? A. By the reflection of the fire.

94 134 X Q. Bright enough to enable you to see it? A. Yes.
135 X Q. Plainly? A. Quite plainly after I came close to it.

136 X Q. Your tug was how near the steamer? A. Made fast right alongside of her.

137 X Q. In actual contact with her? A. Right in contact with her.

138 X Q. And you didn't catch fire? A. No, we didn't catch fire.

139 X Q. The wind was blowing from the south and blowing the fire away from you to the north? A. Yes sir, blowing the fire away from us.

140 X Q. You say you think if you hadn't come down there it would be a total loss? A. Yes sir.

141 X Q. Because there wasn't any other engines? A. That is what I think.

142 X Q. How many other engines were there? A. I didn't see any.

143 X Q. Would you say there were not any? A. I wouldn't say—I didn't see any.

144 X Q. How could you tell there was water thrown in the boat? A. I couldn't tell, I only felt one stream.

145 X Q. And your opinion is that except for your tug's services that ferry boat would have been a total loss because there
95 wasn't sufficient fire engines; and that is based upon the theory there wasn't but one engine down there? A. I didn't see any engines, I saw one stream of water. I don't know what it was coming from, the fire plug or what.

146 X Q. How do you know there were any fire engines down there then? A. I supposed there must have been fire engines down there because we saw the firemen afterwards.

147 X Q. Your opinion then that but for your tug's services the Columbia would have been a total loss is based upon the impression that if there were any fire engines playing at all, there was only one and that was only a small stream? A. I didn't see any, I only saw a small stream of water.

148 X Q. I am asking you if your opinion would be that the steamer would be a total loss except for your tug and this crew, and if that opinion is based upon the impression on your part that you were throwing all the water that was thrown except one small stream? A. Yes, that is what I do think.

149 X Q. If as a matter of fact there were seven engines
96 playing, and they were throwing ten streams besides yours, what would you say? A. If there were seven engines and they were throwing ten streams with a big pressure on them, that might save the vessel.

150 X Q. Did your engine with one hose save her? A. Yes.

151 X Q. Why did you say the department couldn't get to the steamer because the shed collapsed if you don't know when the shed collapsed? A. The supposition was if there was any firemen there they had their hose on the shed and it collapsed with them.

152 X Q. Whose supposition is that? A. That is what I heard.

Counsel for the respondent gives notice of motion to strike it out as hearsay.

153 X Q. I show you the book in which the log appears and ask you when you first saw that book? A. We have had that book aboard the boat for near two years.

154 X Q. How's that? A. We have had that book aboard
97 the boat for near two years.

155 X Q. Before what? A. Up to the present time.

156 X Q. What is it used for? A. For a steward's and store list

which you can see if you will turn to the front part of it; requisition for stores.

157 X Q. The only log in it is this log about this fire? A. That is all sir.

158 X Q. Did you have any log book? A. Once in a while we used to make out a log, but not in a book—on a slate.

159 X Q. So this entry May 13th, 1903, is the only log in the book, that was ever made? A. Only log in the book.

160 X Q. In connection with that tug, as long as you were on her, at whose instance did you write this so-called log? A. Captain Cannon's.

161 X Q. How came you to write it? A. He asked me to write it in that log.

162 X Q. When? A. The 14th day of May.

98 163 X Q. Did you or he compose what's here? A. I composed it, both of us. He composed some of it and I composed some of it.

164 X Q. What did he tell you to write it for? A. In case we had any trouble over this case.

165 X Q. What trouble? A. You know what trouble you have over fires, there is always a law suit.

166 X Q. You thought there would be a law suit? A. I was pretty certain of it, that there would be, which there always is in case of fire.

167 X Q. You were pretty certain there would be a law suit about that fire and you wrote this memorandum for that purpose; you wrote this memorandum to assist you in the claim in the law suit? A. Yes sir.

Counsel for the respondent renews his objection to the introduction of the log on the ground of the evidence just given, when it was made and why.

The log is now offered in evidence, the original to be produced at the hearing of the case, a copy of which is filed with the papers in the case marked "Libelant's Exhibit Spedden No. 2," reading as follows:

99 *"Log of the Tug Sarah, of Baltimore."*

MAY 13TH, 1903.

Left Kettle shoals, Potomac river, with schooner Manuel R. Cuza & Schr. Alice Holbrook bound for Washington, D. C.

Anchored the Schr. Manuel R. Cuza at Alexandria 3.30—p. m. Then proceed to Washington with Schr. Alice Holbrook, arrived at Washington 5.30—p. m. Left Washington 5.35—p. m. for Alexandria arrived at 6.10—p. m. Left Alexandria for Washington with Schr. Manuel R. Cuza arrived and docked schr. at 9th St. whf. 7.35—p. m. Discovered fire on the Stmr. Columbia about 9.25—p. m. Arrived at the fire about 9.40 put a line of 3 inch hose on the burning stmr.

and did excellence work, putting the fire out at 11.45—p. m. In reference of doing good work with fire pump & hose Capt. Sutton, harbor-master & Captain Wagner of the Washington fire department also the superintendent of the Washington Steam Ferry Co. Stmr. Columbia Mr. Padgett said that the tug Sarah did excellence work. The main body of fire was put out 11.45—p. m. but after that untill about 12.30 to 1 o'clock we were engaged putting 100 out sparks here & there on the steamer when the said steamer sank at her whark in slip. Caused by being filled full of water that was played on by fire hose. After that we remained at her whf. near said steamer untill 7.30—a. m. next morning being Thursday. The men of the fire dept. were on burning stmr. Also the captain of the said steamer Columbia. And when she sank we rescued or took them off burning steamer on tug Sarah.

HERBERT CANNON,
Master of Tug Sarah."

Re-direct examination.

(By Mr. ABERCROMBIE :)

1 R. D. Q. Mr. Spedden please indicate there on that drawing you have, the position of the Columbia? A. I am going to draw it the best I can now.

2 R. D. Q. Certainly. A. That represents the steamer Columbia—that ain't a very good model.

(Mr. ABERCROMBIE :) That is good enough though.

(Mr. DARLINGTON :) Write the word Columbia there so we will know what it is.

(WITNESS :) Here is the starboard quarter.

3 R. D. Q. Indicate the position of the tug ; draw the form 101 of her? A. That straight line there is the tug.

4 R. D. Q. Indicate the end of the pier on that side ; the starboard side? A. Well here it is ; it is indicated here—that is the pen.

(Mr. DARLINGTON :) Write the word end.

5 R. D. Q. How wide was that? A. I don't know exactly how wide it was but I know it wasn't wide enough for a driveway.

6 R. D. Q. Was it as wide as the side A? A. Oh no, nothing like it. That wharf was at least eight to ten feet wide, that wharf was.

7 R. D. Q. How far was it from the bow of the Sarah across to that shed ? A. I don't know how far that was, I suppose a hundred feet—this way to some of the sheds on the street I suppose a hundred feet.

8 R. D. Q. What was there between the bow of the Sarah and the shed ? A. There was water there between here (indicating).

9 R. D. Q. Mr. Spedden your opinion as to why you think the Columbia would have been totally destroyed if the Sarah 102 hadn't been there, was from the facts as you saw them?

Question objected to as leading and incompetent.

A. Yes, from the facts as I saw them.

10 R. D. Q. And was not gathered from an impression?

Objection is renewed and notice given of motion to strike out any answer at the hearing.

A. It is not gathered from any information that I got.

11 R. D. Q. If it were a fact Mr. Spedden that there were ten lines of water being played on the Columbia either before or at the time you got there what impression did it have on the fire on the Columbia? A. If there were ten lines of hose of water playing on the Columbia at the time we got there it had very little impression if any.

Re-cross examination.

(By Mr. DARLINGTON :)

1 R. X Q. Indicate by dotted lines where this gangway through the Columbia was. A. Here is her engine room and boiler room.

2 R. X Q. Put boiler, that is right. A. Engine and boiler. Here is the gangway runs up this way (indicating).

103 3 R. X Q. Just make dotted lines. A. And a gangway runs up, this way.

4 R. X Q. Please carry those dotted lines to where it leads out of the steamer? A. It don't go any further, both ends is open; there is a gangway on both sides of the boiler and engine room; the boiler and engine room is right in the centre.

It is agreed that the sketch shall be filed as an exhibit and marked "Libelant's Exhibit Spedden No. 1."

JOHN LARKIN, a witness of lawful age, produced on behalf of the libelant, having first been duly sworn, testified as follows:

Direct examination.

(By Mr. ABERCROMBIE :)

1 Q. Your full name is John Larkin? A. Yes sir.

2 Q. What is your occupation Mr. Larkin? A. Engineer, sir.

3 Q. What boat are you on? A. On the tug Sarah, sir.

4 Q. How long have you been on the tug Sarah? A. Altogether about two years and five months.

5 Q. Were you on the Sarah at the time of the fire at 104 Washington? A. Yes, sir.

6 Q. In last May? A. Yes sir.

7 Q. Did you have charge of the engines? A. No sir, I was second engineer.

8 Q. You were second engineer? A. Yes sir.

9 Q. Who was chief? A. Mr. Klages.

10 Q. Mr. Klages? A. Yes sir.

11 Q. Do you know where Mr. Klages is now? A. On the boat I think, the Sandow. I believe he is not in port now.

12 Q. Where were you when the fire broke out on the Columbia? A. I went up to get some tobacco.

13 Q. You went up to get some tobacco? A. Yes sir, and when I was in the store buying the tobacco I heard the whistles blowing and I knew there was some trouble, and I went out and saw a glare of light from a fire and knew there was a fire somewhere.

105 14 Q. How far away were you from your tug at that time?

A. Might be a block.—you know the length of the pier and across the street—the first street on a level with the water front.

15 Q. Is that Water street? A. I don't know the name of the street sir—the street that runs along the water front. I am not acquainted in Washington scarcely any at all.

16 Q. What did you do then Mr. Larkin when you saw this fire? A. Went right down aboard the boat and found out where it was located at; you could see it then you know.

17 Q. From the tug boat? A. From the tug boat, yes sir.

18 Q. What did you do first? A. Got ready for business.

19 Q. Got ready for business? A. Yes sir, we always have steam on the boat. We always have steam on, hardly ever less than a hundred pound of steam you know. We got all ready, got our hose out on deck, the people on deck were getting ready to leave there. I was busy with my work. I don't know what was going on above you know.

106 20 Q. What fire apparatus have you on the Sarah? A. Quite a large size pump, duplex pump.

21 Q. What kind? A. Duplex pump, double acting pump.

22 Q. What size hose do you use? A. The regulation fire hose same as the fire department.

23 Q. How much hose have you? A. Two sections of fifty feet.

24 Q. What other size? A. Our other small hose belonging to the boat, one and a half inches.

25 Q. How long was it from the time you saw the fire—came out of the tobacco store and got on the tug and got down to the Columbia? A. Not more than twenty minutes at the farthest.

26 Q. Who was on board of the tug at the time? A. Me and the chief, the cook and the deck hand was all I seen; of course I don't know how many there were present aboard, couldn't see all of them.

27 Q. Did you know the captain was away and the mate? A. Yes sir, I knew they were away, but they were coming down then.

107 28 Q. How soon did they come? A. By the time we got ready they were ready; we wasn't no time getting ready.

29 Q. What orders did you receive? A. They blew the

whistle to let go the lines and get her away from the dock and start down.

30 Q. And when you got down to the Columbia what did you do ?
A. We were ready with the fire hose. My station then was with the pump.

31 Q. Where was the pump located ? A. Down in the lower engine room.

32 Q. You were in the lower engine room when you came to the Columbia ? A. Yes sir, ready for business. I was draining the water out to get her to going.

33 Q. You didn't see the fire after you went below ? A. No sir my place was down there. If they wanted to shut her down it was my place to shut her down ; the chief was up above handling the engines.

34 Q. How long was you engaged altogether ? A. Came near midnight before we got through—it was after that before we got through with the small pump ; of course when the boat went 108 down we shut the big pump off.

35 Q. Could you see anything when the Columbia sunk ? A. No sir, I couldn't see nothing only I could feel the boat listing over and I judged then we were afoul somewhere.

36 Q. You couldn't tell what it was ? A. No sir, I couldn't tell what it was.

37 Q. Didn't leave your position to see ? A. No sir, I didn't leave my position to see.

38 Q. Of course you couldn't see the fire ? A. No sir, couldn't see what progress they made with the fire at all. Couldn't see nothing ; my station was to stand by the pump ready to shut it down. Once or twice I guess they changed their position or something and had to stop the water so they could handle the hose. It is pretty hard to handle that hose when there is a big pressure on it.

39 Q. Do you know the location of the tug with reference to the steamer ? A. We were on the end I couldn't tell you exactly what part you know ; on the end where people goes back and forth.

Cross examination.

109 (By Mr. DARLINGTON :)

1 X Q. How much steam pressure does it require to operate your pump ? A. We can work it with fifty pound of pressure without any trouble and get good results. Of course we never have the steam that low ; we always have more steam to work with.

2 X Q. Who discovered this fire do you know ? A. I don't know who was the first one. I know when I seen it it was about 9 or 10 o'clock ; me and the chief was both together.

3 X Q. When you saw it, it could be seen two squares away ? A. Yes sir, there was a glare on the sky a big light.

4 X Q. The captain and mate at that time were not there ? A. No sir, they was close by because it was no time after I got aboard

the boat before I heard them on deck. They whistled down to know if we were ready and we told them yes, and they throwed off the lines and we started down.

5 X Q. Did you see the captain and the mate when they left the tug to go up town? A. No sir, I didn't.

6 X Q. When was the first time you did see them after that? A. When they were fighting the fire with the hose on the
110 steamer's deck.

Re-direct examination.

(By Mr. ABERCROMBIE:)

1 R. D. Q. What pressure did you use for the pump—did you use that night? A. I couldn't exactly tell you that. You have to regulate the valve according to the stroke of the pump. I know what pressure we had on the water into the pump—sixty pounds pressure.

2 R. D. Q. Sixty pounds pressure? A. Sixty pounds pressure. It varies according to the way you work your steam valve you know.

WILLIAM R. CANNON, a witness of lawful age, produced on behalf of the libelant, having first been duly sworn, testified as follows:

Direct examination.

(By Mr. ABERCROMBIE:)

1 Q. Mr. Cannon what is your occupation? A. Deck hand on the tug Sarah sir.

2 Q. Were you on the Sarah at the time of the fire at Washington last year? A. No sir, I was on her while the fire was going on.

111 3 Q. You were employed on the tug at that time? A. Yes sir.

4 Q. Where were you at the time the fire broke out on the Columbia? A. I was up in the city walking about.

5 Q. How did you know about the fire? A. I heard the engines going, I didn't pay much attention to them until it commenced to get kind of late and I came down to go aboard the boat and found out the boat was gone and I seen some engines out in the street. They were pumping and I thought well the boat is gone to the fire and I went down the street and found the boat laying alongside of the ferry boat which had sunk.

6 Q. And when you got there the fire was out? A. And when I got there the fire was out, yes sir. I went aboard and changed my clothes and some sparks on the steamer Columbia was burning yet, some of the wood, the timber, and I gave a hand on deck to put that

out and some of the firemen there had hatchets taking up pieces of the wharf there and I helped to play the hose on that.

112 7 Q. How did you get on the Sarah? A. I had to come down along the wharf sir; the ferry boat's bow was in, and had to come down there; some of the wharf was already burnt, to get aboard of her. There was a narrow strip and she was lying alongside of that strip.

8 Q. Where was the Sarah? A. Lying alongside of the ferry boat.

9 Q. This is a diagram that Mr. Spedden has drawn—where was the tug Sarah lying when you came aboard of her? A. Lying out here right on this strip, alongside of the ferry boat with her starboard side on to the ferry boat.

10 Q. When you came down toward the fire did you notice the engines were working? A. I seen one engine up the street pumping. That was all I seen, one engine.

11 Q. One engine? A. That was all.

12 Q. What time was that? A. That was about quarter after eleven, something around that time.

13 Q. And you saw but one engine there at that time? A. That is all I seen, yes sir.

113 14 Q. How far was the ferry boat from the street—the bow of the ferry boat from the street? A. I guess about 200 feet, that dock, she was lying in the dock; to my knowledge it is about two hundred feet.

15 Q. How long after you arrived there did they work putting out sparks around the Columbia? A. Until about 2 o'clock in the morning.

16 Q. Two o'clock? A. Yes sir.

17 Q. Then you laid up until the next morning at seven o'clock? A. Yes sir, I lent them a hand around there with a hose until they finished with it—the firemen's went ashore.

Cross examination.

(By Mr. DARLINGTON:)

1 X Q. Mr. Cannon are you related to Captain Cannon? A. Yes sir.

2 X Q. What is the relationship? A. He is my father.

3 X Q. How far from the Columbia did you see this engine or engines pumping? A. I didn't see her from the Columbia, I seen her as I was coming down from the wharf.

4 X Q. How far from the Columbia? A. Up the street about 200 feet.

5 X Q. From the Columbia? A. Yes sir.

6 X Q. And you came from that engine down to the wharf and got on the Sarah? A. Came right down the yard and got aboard the Sarah.

7 X Q. The Columbia was sunk at that time? A. The Columbia was sunk at that time, yes, sir.

8 X Q. That was about quarter past eleven? A. About that time, yes sir.

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"LIBELANT'S EXHIBIT CANNON No. 1."

HEADQUARTERS OF THE FIRE DEPARTMENT,
DISTRICT OF COLUMBIA, WASHINGTON, May 14, 1903.

Captain Herbert Cannon, commanding tug boat Sarah, Baltimore Md.

DEAR SIR: The department has received from its senior assistant chief, Mr. Wm. T. Belt, a report in which he requests me to extend to you his grateful appreciation of the valuable services you rendered him last evening at the fire on the water front of this city. Assistant Chief Belt reports that you rendered great and valuable services, and, in conveying to you his thanks, I beg you to accept those of this department.

Very respectfully,

R. W. DUTTON,
Chief Engineer.

G.

116

"LIBELANT'S EXHIBIT SPEEDEN No. 2."

"*Log of the Tug Sarah of Baltimore.*

MAY 13TH, 1903.

Left Kettle Shoals, Potomac river, with schooner Manuel R. Cuza & Schr. Alice Holbrook bound for Washington, D. C.

Anchored the Schr. Manuel R. Cuza at Alexandria 3.30 p. m. Then proceed to Washington with Schr. Alice Holbrook, arrived at Washington 5.30 p. m. Left Washington 5.35 p. m for Alexandria arrived at 6.10 p. m. Left Alexandria for Washington with Schr. Manuel R. Cuza arrived and docked schr. at 9th St. whf. 7.35 p. m. Discovered fire on Stmr. Columbia about 9.25 p. m. arrived at the fire about 9.40 put a line of 3 inch hose on the burning stmr. and did excellence work, putting the fire out at 11.45 p. m. In reference of doing good work with fire pump & hose Capt. Sutton harbor-master & Captain Wagner of the Washington fire department also the superintendent of the Washington Steam Ferry Co. Stmr. Columbia Mr. Padgett said that the tug Sarah did excellence work. The main body of fire was put out 11.45 p. m. but after that until about 12.30 to 1 o'clock we were engaged putting out sparks here & there on the steamer when the said steamer sank at her wharf in slip. Caused by being filled full of water that was played on by fire hose. After that we remained at her wharf near said steamer until 7.30 a. m. next morning being Thursday. The men of the

fire dept. were on burning steamer. Also the captain of the said steamer Columbia. And when she sank we rescued or took them off burning steamer on tug Sarah.

HERBERT CANNON,
Master of Tug Sarah."

117

Testimony on Behalf of Libelant.

Filed January 13, 1905.

In the Supreme Court of the District of Columbia, Holding a District Court for the United States for said District.

THE JAMES CLARK COMPANY OF BALTIMORE CITY
(a Body Corporate), Owner of the Steam Tug
Sarah,

vs.
THE STEAM FERRY BOAT COLUMBIA AND OWNERS.

} In Admiralty.

It is agreed that this testimony be taken by consent, the signing, sealing, and certification waived; but subject to all legal exceptions to the competency and admissibility of the testimony, the stenographer's fees to be charged in lieu of notary's fees and form the basis of taxation for costs.

Counsel present: H. N. Abercrombie, Esq., proctor for the libellant. J. J. Darlington, proctor for the respondent.

Charles A. Klages, a witness of lawful age, produced on behalf of the libellant, having first been duly sworn, testified as follows:

118 Direct examination.

(By Mr. ABERCROMBIE:)

1 Q. Please state your full name? A. Charles A. Klages.

2 Q. What is your business Mr. Klages? A. Chief engineer of a marine boat.

3 Q. In whose employ are you? A. The James Clark Company.

4 Q. Do you know the tug Sarah? A. Yes sir.

5 Q. Have you been on her? A. I was.

6 Q. For how long a time and in what capacity? A. Three years and six months as chief engineer.

7 Q. Were you on the Sarah in Washington the 13th of last May? A. I was sir.

8 Q. Do you remember the fire? A. I do sir.

9 Q. Please state about what time it was—do you know the ferry boat Columbia? A. Yes sir, I do.

10 Q. Please state when you discovered fire on the ferry boat Columbia? A. Well I was standing aboard the tug—I suppose a few minutes after nine o'clock that night and I heard

a whistle blowing; I supposed it came from the little harbor police boat or some of them just below Newport News and I gazed around and saw a bright blaze and when I saw a bright blaze I gave the signal for the men going across to get tobacco and I called them back and then I blowed the siren and got everything ready. I knowed we might lend them assistance there in some shape and it was not long, about ten minutes I suppose, something like that fifteen minutes at least before the captain came aboard.

11 Q. Who was on board the boat at the time you discovered the fire? A. I was only by myself—nobody else but myself.

12 Q. Where was the captain and mate? A. I don't know, they had just gone across the street—whether going up town or not I don't know sir.

13 Q. How long was it before the captain and mate got back? A. In about ten or fifteen minutes.

14 Q. After you discovered the fire? A. Discovered the fire and blowed the siren.

15 Q. What did you do Mr. Klages? A. As soon as I dis-
120 covered that—it is customary for us the second engineer was right on hand—we spread our fires and got more steam than we generally lay under; we lay under one hundred pounds steam wherever we are at. We got fire pump ready, then the steward and one of the deck hands helped us and when the captain and mate jumped aboard, it was just about five minutes before we were into the dock where the Columbia was lying.

16 Q. How long was that Captain after the time you discovered the fire until you arrived with the boat at the fire? A. I don't believe—it might have been a little over twenty minutes or twenty-five minutes; something like that—no longer than that.

17 Q. What fire apparatus have you on the tug? A. I have a pump—I was going to give you the dimensions of it. Here is the dimension of the pump taken right off of the catalogue of the builder, if you wish to look at it.

18 Q. I don't know that I would know anything about it if I saw it. A. You can see it right from the catalogue.

121 Any testimony taken from the catalogue of the pump is objected to by counsel for the defendant.

19 Q. Do you know from your knowledge of the pump that is on the Sarah—or was on the Sarah at the time of that fire, what the size of it is? A. Yes sir.

20 Q. What is it? A. It is 10 x 8 & 12. 10 inch steam, 8 inches the stroke and 12-inch water end.

21 Q. How many line of hose will that pump of yours supply? A. Two.

22 Q. What size? A. $3\frac{1}{2}$.

23 Q. $3\frac{1}{2}$ what? A. $3\frac{1}{2}$ inches.

24 Q. Do I understand it supplies two lines of pipe $2\frac{1}{2}$ inches in diameter. A. Yes sir.

25 Q. When you pulled up to the Columbia that night, what was your position? A. In the engine room sir, right along side the engine room.

122 26 Q. You were not outside, you couldn't see outside? A. No sir.

27 Q. You don't know in what condition the fire was? A. No, sir.

28 Q. Can you state under what pressure— A. Yes sir.

29 Q. Your pump was working? A. Working just at that time when we got in there, 60 pounds pressure, the pump was a hundred pounds steam. Of course when the steam rises we get more pressure on the pump.

30 Q. Did you receive the order to start your pump? A. I did.

31 Q. Who gave the order? A. The captain.

32 Q. Captain Cannon? A. Yes sir.

33 Q. And you started your pump going? A. Yes sir.

34 Q. How long did you work? A. Now, it was nine something—I did have it down, but I have hardly forgot—up until half past one before we stopped with the large pump.

123 35 Q. After you stopped with the large pump, what did you do? A. The firemen from the fire department came on the wharf and a stringer piece to the wharf was on fire and I lent them our little deck hose ($1\frac{1}{2}$ inches) and they used that to kill the fire on the stringer piece along side of where the boat was lying at the time.

36 Q. Then how long did you have the small pump acting? A. Up until about a little after two o'clock I suppose it was; I can't say exactly—the exact time I can't remember. We laid there all night until the next morning way after breakfast.

37 Q. Mr. Klages did you see any of the fire department? A. Oh yes.

38 Q. Men of Washington? A. Yes sir, I was introduced to one of the chiefs; which one it was I don't know.

39 Q. Do you know his name? A. I wouldn't like to say, I have forgotten that. I would remember the gentleman well, it is a tall man with a grey mustache.

124 40 Q. Would you know if his name was suggested to you? A. I might—it has been some time ago.

41 Q. Captain Cannon says that Mr. Belt— A. He is the gentleman that brought him aboard; Captain Cannon brought him aboard.

42 Q. Captain Cannon says it was Mr. Belt the chief engineer of the fire department of Washington, D. C.

Objection made to the witness' conclusion that it must have been Mr. Belt.

43 Q. What did he have to say?

Objection made to any conversation between the witness and the alleged chief, or any remarks by the alleged chief, as being incompetent testimony, as against the defendant, and as being heresay.

44 Q. Now Mr. Klages just state what the chief told you? A. The chief told me, that is, he says "You have got a very fine pump says he, I says yes sir, says he you dont object to my looking at it, I says no sir help yourself. He went down and looked at her and the remarks was made to us, well he says—

One moment same objection.

125 45 Q. Who made these remarks Mr. Klages? A. One of the firemen. It must have been a chief, one with a white coat, white hat and coat on.

46 Q. The same man you were talking about? A. Yes sir.

47 Q. Well, what did he say? A. He says you fellows done well —you fellows ought to get something for this, and I says I have got nothing to say about that. That is all I said.

Objection renewed and notice given that motion will be made to strike out all of the alleged conversation.

48 Q. Who else did you have a conversation with? A. With several of the firemen.

49 Q. Any particular ones you can describe or know by name? A. No I don't know the name, but I would know the man if I ever saw him. He used to be a tug-boat man, I have met him on several occasions and that night he came aboard and shook hands with me.

Objection made to the conversation with the alleged fireman and I give notice that I will move to strike out the same on the grounds above stated.

126 50 Q. Can you fix in any way by which we can ascertain who this fireman is, Mr. Klages that made this latter remark you were speaking of? A. All I know his mother, I believe, keeps the Piney Point lighthouse and he is in the fire department at Washington now.

51 Q. Please state what he told you and how he came to say it?

(Same objection.)

A. Boys you have done as much as four of our engines would do on the street—that is what he told me.

52 Q. How did he come to make that remark? A. I don't know.

53 Q. Were any other fire boats there Mr. Klages? A. No sir, I didn't see them.

54 Q. Did you see Mr. Padgett that night? A. No sir, not that night.

55 Q. When did you see him? A. I saw him the next morning talking to the captain, and the captain told me who the gentleman was.

127 56 Q. Now Mr. Klages did you see the Columbia after the fire that morning? A. Yes sir.

60 Q. Did you examine her? A. No sir, I did not. Only

when aboard, I seen that the deck was scorched pretty bad, that is all, I didn't go very far.

61 Q. Did you see her machinery at all? A. I could see the beam and galley's frame and smoke stack and so on; I could see that.

62 Q. The boiler? A. Part of the boiler—drum at least.

63 Q. Any of the rest of the machinery? A. Only just the cylinders, that is the shafting, I could see that.

64 Q. How badly were they destroyed or injured? A. To the best of my knowledge they wasn't so badly injured because there was lots of water thrown there to stop them getting injured bad.

Objection made to the answer as being an argument and not testimony of anything that the witness saw.

65 Q. Were you able to see whether or not the machinery was in such a condition that it could be repaired? A. Oh yes, it 128 it could be repaired very nicely. I have seen engines worse than that by George after being into a fire and was repaired—a great deal worse.

66 Q. What would be the relative value of that machinery as it stood and new machinery; can you state?

A. Objected to on account of the witness having already said he saw very little of the machinery. It is therefore impossible for him to be competent to testify of its relative value.

A. I couldn't state that, no sir.

67 Q. Now Mr. Klages tell us what you know as to the damage done to the hull, so far as you are able to say?

Objected to on the ground that sufficient foundation has not been laid as to what the witness did see in regard to the hull.

A. Well, so far as I could see there was hardly any damage done at all to the hull, only the deck was scorched and the upper work, the light work was gone. So far as the lower part of the hull, there wasn't anything hurt there because it sunk right there; there was too much water in her—she went right down and that is what saved the hull.

129 68 Q. Mr. Klages how much water will that pump throw?

A. Well, if you don't object I have got it on a piece of paper—I can't keep it in my memory.

Objected to unless it is first shown where the witness got the data which is on the paper.

69 Q. Mr. Klages where did you get the information from? A. Right from the pump—the measurement of the pump.

70 Q. And from a measurement of the pump you calculated the amount of water it will throw? A. That is right.

71 Q. Please state what the pump will throw? A. With a hundred strokes a minute—that is a double stroke—she is a double

pump you know—i. e. 50 strokes to each piston, she throws 522 gallons of water per minute.

72 Q. Well, under how many strokes—do you know how many strokes you were running that night? A. Yes, we were running about that night—about a hundred strokes with 60 pound pressure, a hundred pounds steam. As soon as we got 120 pounds steam, why we increased the speed of the pump.

130 73 Q. And you were running your pump continuously? A. Yes sir.

74 Q. From what hour? A. From a little after—it was after 9 o'clock up until about I suppose, about 25 minutes after one; something like that in the morning.

Cross examination.

(By Mr. DARLINGTON :)

1 X Q. Captain there wasn't very much burning accomplished, was there? A. Sir?

2 X Q. Not very much of the boat was burnt, was it? A. The upper part; all the light work.

3 X Q. How much was that? A. The upper saloon, cabin and pilot house, all that light work; what we call the light work.

4 X Q. How long did it take that part of the boat to burn? A. It didn't take very long.

5 X Q. Could you tell us about how long? A. After I got to the fire—I seen very little of the fire, I tell you right there.

6 X Q. What was the condition of this light work when 131 you got to the fire? A. The part up towards the wharf, all what I could see was afire and the part in the water hadn't started yet.

7 X Q. Half of it was burned when you got there of this light work? A. Around the smoke stack it was, if I am not mistaken.

8 X Q. You say it didn't take very long to do that? A. Not so very.

9 X Q. About half of this burnt in about twenty five minutes you think? A. Oh no.

10 X Q. Didn't you say you got to the fire about twenty minutes after the first alarm that you heard? A. Yes sir, after I heard the first whistle blow from the boat, yes sir.

11 X Q. Didn't you say it was half burnt or about when you got there? A. Oh no, I don't say that.

12 X Q. Haven't you just said the wood work, all this light work was about half burnt when you got there? A. I couldn't say half.

132 I saw it burning around the smoke stack. I couldn't say that, I had to stand around the engine. I only went by the captain's orders after that.

13 X Q. I only asked you what you saw when you got there? A. I couldn't see it. I saw the flare before we got there, but after we

started with the boat I had to stay in the engine room ; I couldn't stay outside any more.

14 X Q. Did you or not see the Columbia before you went to the engine room ? A. I saw the fire, but I didn't know it was the Columbia.

14 X Q. So you didn't see what part of the Columbia was burnt ? A. No sir.

16 X Q. You didn't know anything about what was burnt until the next morning ? A. What I saw the next morning, yes sir.

17 X Q. Why did you tell us it was half burnt when you got there ? A. I couldn't say that—I must have made a mistake there; I couldn't say that.

18 X Q. Now Mr. Klages did you commence work a little 133 after 9 o'clock when you say you did ? A. Yes sir.

19 X Q. And you worked clear after 1 o'clock ? A. Yes sir.

20 X Q. How do you account for the fact that no part of the boat was burnt except the light work, and it wouldn't take long to burn that ? A. I don't know that. I got orders to stay down in the engine room and that is what I did.

21 X Q. How can you explain your working four hours and all that was burnt was the light work and that would burn very quickly ? A. The galley's frame was afire and I suppose there was some flame below.

22 X Q. Do you know that ? A. No.

23 X Q. Are you telling what you know or what you supposed ? A. Oh, what I know.

24 X Q. Is it, or is it not true, that fire was out a little after 11 o'clock that night ? A. Not to my knowledge.

25 X Q. If you were pumping after 1 o'clock that night, 134 do you know what was being done with the water ? A. No sir, I do not.

26 X Q. How long had you been working before you got your steam pressure up to 100 pounds ? A. Always lay under 100 pounds pressure every night.

27 X Q. So you got it up to 100 pounds before you got there ? A. We had a hundred pounds ; we were laying under a hundred pounds.

28 X Q. Why did you say that immediately after you got it up to 100 pounds, you increased the speed of your pump ? A. I said 120 pounds.

29 X Q. How many gallons of water will one of your hose discharge in a minute ? A. Well the pump itself will discharge 522 gallons to the minute.

30 X Q. The pump cannot discharge without the hose, can it ? A. No, sir.

31 X Q. I am talking about the hose ? A. I couldn't tell you that.

32 X Q. Do you know how many hose was used ? A. We used two sections of hose, I guess.

135 33 X Q. You guess, I asked you what you knew? A. I said we used two sections of hose that night.

34 X Q. If the mate testified only one was used, could you explain that? A. I don't know unless they took them off because I put both of them together myself.

35 X Q. When did you last see the hose? A. When did I last see the hose?

36 X Q. Yes? A. After they were done with it, it lay there on deck.

37 X Q. When was the last time you seen them before that? A. When I put them together.

38 X Q. Where were you when you put them together? A. That was before I went to the fire.

39 X Q. That was before you went to the fire? A. Yes sir.

40 X Q. You never saw them any time at the fire? A. No sir, I was right in the engine room; I couldn't see nothing.

41 X Q. You have no knowledge how many sections was actually played on the fire? A. I have not, only I put the two sections together—whether they took them apart I don't know.

136 42 X Q. Now after the fire I understood you to say you saw very little of the machinery? A. Yes sir, that was next morning.

43 X Q. Why didn't you see all of it? A. I didn't have time.

44 X Q. I take it for granted if you didn't see it you don't know how badly it was injured, do you? A. No sir, I do not.

45 X Q. You say you were aboard of the Columbia the next morning? A. I was in front there where they lay close to the bridge there. I just stepped aboard of her, that is all, and came right off.

46 X Q. What did you step from? A. From the wharf on her.

47 X Q. She was laying then where people could step from the boat to the wharf? A. Yes sir, where I was at, any way.

48 X Q. Do you know Harbor Master Sutton's boat? A. I have seen it over and over again when I travelled in Washington.

137 49 X Q. Was it there at the fire? A. I heard the whistle—it is the Vigilant isn't it? Isn't that the name?

50 X Q. Yes sir, that is the name. Do you know whether or not that boat has a fire equipment? A. No, I don't know sir.

51 X Q. Do you know whether that boat was there down to the fire? A. I couldn't say that.

52 X Q. You were asked if you saw any other fire boats there you were down where you couldn't see them; were you not? A. I couldn't see them, couldn't see nothing. I could only see my engine and boiler, that is all I wanted to attend to.

53 X Q. You say that this man you think was a chief with a grey hat and coat, came aboard and said, ' You have a very fine pump'? A. Yes sir.

54 X Q. Where was he when he said that? A. In the engine room.

55 X Q. Where was the pump? A. Down below right beneath me.

138 56 X Q. He said that before he saw the pump; didn't he? A. Yes sir.

57 X Q. Do you know how he gathered the knowledge, whether it was a fine pump or not, before he saw it? A. That I couldn't tell you, no sir.

58 X Q. Where were you when you lent these firemen your $1\frac{1}{2}$ inch hose? A. I was sitting in the engine room in a chair and a man came and said 'Why the fire ain't all out yet!' I said I thought you fellows said the fire was out? He says, There is some fire in the stringer here.

59 X Q. What time of night was that? A. After 1 o'clock.

60 X Q. The firemen was still there? A. Yes sir.

61 X Q. How do you know they said the fire was all out? A. I heard them say so.

62 X Q. How long before? A. Ten or fifteen minutes before that.

63 X Q. And you lent them this hose? A. Yes sir.

139 64 X Q. And they took it out and operated it? A. Yes, sir, and they were cutting with axes.

65 X Q. When did the firemen leave if you know? A. I don't know sir. I was up all that day and all night and half past two o'clock I went to sleep.

66 X Q. The fire was all out then? A. No.

67 X Q. When did you go to sleep? A. About half past two o'clock.

68 X Q. The firemen were there then? A. I think so.

69 X Q. They didn't go home and leave you to put the fire out? A. No, but they didn't leave the boat until after two o'clock.

70 X Q. What was the last you heard of any fire? A. The stringer piece on the wharf there.

71 X Q. When did you leave your engine room and come up where you could see anything? A. That was the time.

72 X Q. When you went to sleep, was your pump still working? A. Oh no sir.

73 X Q. You didn't go to sleep until all the pumping was 140 over? A. Not until after it was over.

74 X Q. You quit work in your big pump about twenty minutes past one? A. Some time in that neighborhood.

75 X Q. All the other pumping was done after two when the firemen got the small hose and you supplied the force for them, did you? A. Yes sir.

76 X Q. As soon as you heard this alarm of fire, you got your utmost steam and got the fire pump ready and all that, didn't you? A. Why, that is customary with us. That is our orders. That is the standing rules of our employer.

77 X Q. When was the last time you done anything like that before? A. Before?

78 X Q. Yes? A. Going down the bay.

79 X Q. When? A. About a couple of years ago—here in the harbor upon the Tyler's saw mill.

141 80 X Q. When was that? A. A year and a half ago.

81 X Q. About one and a half years ago? A. When I was on the Sarah.

82 X Q. When you heard this alarm of fire, there was no one on board but yourself? A. That is all. I was laying along side a three-masted schooner loaded with ice.

83 X Q. Anybody there but you? A. Nobody there but me. The cook and the deck hand was sitting on the three-masted schooner lying along side of us.

84 X Q. When you discovered the fire, who was the first person that reached the boat—to get on to it? A. I believe the second—the steward and the deck hand, and the second engineer came running right afterwards. He was right across the street.

85 X Q. Is the steward and the cook the same person? A. Yes sir.

86 X Q. What did you say about some man going away to get some tobacco? A. That was the second, the assistant engineer. He was across the street.

142 87 X Q. What is his name? A. John Larkins.

88 X Q. You are still employed by the James Clark Company? A. Yes sir.

WINFIELD S. CAHILL, a witness of lawful age, produced on behalf of the plaintiff, having first been duly sworn, deposed and stated:

Direct examination.

(By Mr. ABERCROMBIE:)

1 Q. Please state your name and occupation Mr. Cahill? A. Winfield S. Cahill, president of the James Clark Company.

2 Q. Mr. Cahill do you know the steam tug Sarah? A. I do sir

3 Q. Who is the owner? A. The James Clark Company.

4 Q. What is the James Clark Company? A. Builders of marine engines and boilers.

5 Q. Well, is it a partnership or a corporation? A. A corporation incorporated under the laws of the State of Maryland.

143 This method of proving corporate existence is objected to as not being competent.

6 Q. Mr. Cahill who built the Sarah? A. McCusker built the hull, and I built the balance of the machinery and the joiner work.

7 Q. Do you know her equipment, her machinery? A. Oh yes.

8 Q. You built the machinery for her? A. The whole entire

machinery and also the joiner work. I built everything except the hull. The pumps, of course we bought those.

9 Q. Are you the owner now Mr. Cahill? A. No sir, we sold her probably about 8 or 9 months ago.

10 Q. You owned her at the time of this fire in Washington? A. Yes sir.

11 Q. What is the value of the Sarah Mr. Cahill—what was the value at that time? A. We valued her at \$20,000.00.

12 Q. Of course you wasn't on the Sarah and know nothing about the fire? A. No sir, nothing about the fire whatever only what I have been told.

144 13 Q. Do you know the steam ferry boat Columbia? A. Yes sir.

14 Q. Did you know her before the fire? A. Oh yes sir, we built the machinery for her—William E. Woodall & Co. built the hull—did the wood work.

15 Q. Mr. Cahill, what was the cost of installing the machinery in the Columbia? A. I don't just remember the exact figures, but some twenty odd thousand dollars if I am not mistaken.

16 Q. Was the machinery new then? A. When I installed it?

17 Q. Yes. A. Oh yes, it was built for her.

18 Q. What was the hull worth? A. New?

19 Q. Yes. A. The hull new I believe cost forty thousand dollars complete—hull and machinery.

20 Q. Have you seen—did you see the Columbia after the fire? A. I did sir.

21 Q. How soon? A. It was raised when I saw her lying at her wharf.

145 22 Q. Do you know how soon that was after the fire? A. It runs in my mind it was a month or six weeks after the fire. I am not positive exactly. She wasn't raised but a short time when I went to Washington.

23 Q. Did you examine her then? A. I did, yes sir. Went aboard of her. She was lying at her wharf.

24 Q. Could you see her machinery? A. Oh yes.

25 Q. The condition it was in? A. Pretty well, yes sir.

26 Q. Please state what condition the machinery was in. A. The machinery was in fair condition; I noticed her walking beam appeared to be bent. It was in very fair condition.

27 Q. What would you say as to the value of the machinery on the Columbia at that time? A. The machinery alone I would consider a very fair valuation, not less than fifteen thousand dollars.

28 Q. What damage was done, that you could see, to her hull?

A. The top sheathing was burnt—the hull appeared to be 146 in pretty fair condition. There seemed to be very little burnt about the hull in general.

29 Q. What value would you place on the hull? A. At least five thousand dollars.

30 Q. Then that would make the total valuation of the vessel as

she stood at the time you saw her, subsequent to the fire, at what figure? A. Twenty thousand dollars.

31 Q. Do you know the tonnage of the Columbia? A. I did, but that has slipped my memory now; I couldn't tell you.

32 Q. Do you know her length or breadth? A. No sir; I couldn't tell you. I do not, no sir.

Cross-examination.

(By Mr. DARLINGTON:)

1 X Q. Mr. Cahill you are a stockholder in this corporation? A. Yes sir.

2 X Q. In the James Clark Company? A. Yes sir.

3 X Q. To what extent? A. Out of a thousand shares I own nine hundred and ninety six.

147 4 X Q. So you are practically the claimant in this case? A. Practically.

5 X Q. What was your object in examining the Columbia after the fire? A. To see what extent damage was done.

6 X Q. To what end? A. I was desirous to know how much it was burnt.

7 X Q. Why? A. I don't know I had any particular reason.

8 X Q. Were you at all interested in knowing to what extent it was burnt? A. I knew my boat had put the fire out and I went down to look after it. That was part of my affairs to look after it.

9 X Q. That is what was your object in making the examination? A. To post myself.

10 X Q. That all? A. In case I was called upon. I thought I was entitled to salvage and I wanted to know to what extent; what the valuation was.

11 X Q. Wasn't the real object and purpose the claim by 148 you made in the way of salvage? A. I wanted to claim all I could if I was entitled to salvage.

12 X Q. Then your object in going to the trouble of going to Washington and inspecting the boat was that you could make as large a claim for salvage, as you could; is that right? A. Well I wanted to get a reasonable amount.

13 X Q. And your examination was with a view of testifying to as large an amount as you could? A. Only in a fair way. I was trying to look after the actual value as near as I could.

14 X Q. You didn't go down representing the owners of the ferry boat? A. Not a bit.

15 X Q. The owners exclusively of the tug? A. That is it sir.

16 X Q. When did you sell the tug? A. I presume about 8 months ago, somewhere about there—three or four months after the fire.

17 X Q. Three or four months after the fire? A. Yes sir.

18 X Q. Did you get twenty thousand dollars for her? A. Got nineteen thousand for her.

149 19 X Q. Whom did you build the machinery for the Columbia for? A. I contracted with Mr. Woodall.

20 X Q. You mean for her hull, you furnishing the machinery for Woodall? A. I think we did, yes sir.

21 X Q. Was he the original owner of the Columbia? A. He was the builder. He was the owner until he turned her over.

22 X Q. When was it you built the machinery or furnished it? A. I cannot tell you the year but it runs in my mind it must have been in the neighborhood of about 11 years ago probably.

23 X Q. Where did you get the idea the whole thing cost forty thousand dollars? A. Woodall and ourselves figured together.

24 X Q. You meant that is what he told you? A. We figured together. We have to do that in confirming our items.

25 X Q. What interest did you have in the cost of the hull at that time? A. Mr. Rigby was at that time manager, if I am not 150 mistaken—

26 X Q. For whom? A. For this company this boat was built for.

27 X Q. I thought you were building the boat for Woodall? A. We do Mr. Darlington in one respect. Should an owner want a boat and they come and consult Woodall and ourselves about these matters, Woodall and ourselves figure together for the owner.

28 X Q. What interest had you in the cost of the hull? A. Practically none.

29 X Q. Why should you be figuring on the cost of the hull? A. I wanted to see about what the machinery and the hull was worth.

30 X Q. When? A. At the time and after the fire.

31 X Q. Was that the time you believed it cost forty thousand dollars? A. Oh no, that was when she was originally built that she cost forty thousand dollars.

32 X Q. I am asking you what interest you had in figuring on the cost of the hull at the time you figured on the machinery? 151 A. I gave Woodall my figures and he gave me his at the time.

33 X Q. Why? A. We always figure together.

34 X Q. Why? A. Because it is part of our business to know the valuation of these things at the time of building.

35 X Q. What possible interest has a person who fills the order for machinery to a boat, in knowing the cost of the hull? A. At the time of the figuring I think he was limited to forty thousand dollars and he had to cut it down; and he wanted to know if I could cut down the machinery.

36 X Q. And how did you get at the cost of the hull? A. The difference between the cost of my machinery and the forty thousand dollars was his cost.

I move to exclude the testimony on that point.

152

Depositions for and on Behalf of Libellee.

Filed January 13, 1905.

In the Supreme Court of the District of Columbia, Holding a District Court for the United States for said District.

THE JAMES CLARK COMPANY OF BALTIMORE CITY
(a Body Corporate), Owner of the Steam Tug Sarah,

vs.

THE STEAM FERRY BOAT COLUMBIA AND OWNERS.]

} In Admiralty.

Met pursuant to notice. It is agreed that this testimony be taken before Laura A. Shugrue, a notary public; the signing, sealing, certification and filing waived, but subject to all legal exceptions to the competency and admissibility of the testimony; the stenographer's fees to be charged in lieu of notary's fees and to form the basis of taxation for costs.

Counsel present: H. N. Abercrombie, Esq., proctor for the libellant, and J. J. Darlington, Esq., proctor for the respondent.

WILLIAM T. BELT, a witness of lawful age, produced on behalf of libellee, having first been duly sworn, testified as follows:

153 Direct examination.

(By Mr. DARLINGTON :)

Q. What is your full name? A. William T. Belt.

Q. What is your occupation? A. Chief engineer of the District of Columbia fire department.

Q. What was your position on the evening of the 13th of May, 1903? A. Senior assistant chief of the District of Columbia fire department.

Q. Do you remember the burning of the steamer Columbia on the evening of that day? A. I do, sir.

Q. Were you present? A. I was.

Q. At what hour did you reach the scene of the fire? A. At 9.41 p. m.

Q. How do you fix the time you arrived? A. I got the time from the records at the fire alarm office.

(It is agreed that the counsel for the libellant may inspect this fire alarm record, and further interrogate the witness in respect to it if he should wish to do so. A copy of said record is now produced and identified by the witness as correct, and that it was taken from the machine that registered the alarm.)

Q. Now, Captain, please state what you found the conditions to be when you arrived at the fire? A. When I arrived at the 154 fire, I found the steamer Columbia and a shed on fire with three of my companies in service, with four effective streams of water playing on the boat and shed. Four additional engines were then laying out their lines of hose to the fire, and in the shortest possible time they had their streams also, making eight streams of water playing on the fire.

Q. Within how long a time was it after you arrived, when the last of these engines commenced to play? A. Well, some of them were laying out the hose and others starting to lay it out. I don't think, to the best of my belief, that the last engine was over 11 minutes from the time they received the alarm, and that would make it 9.46, about five or six minutes, not over, after I had arrived.

Q. How long did you remain? A. I remained until the fire was well under control, and gave directions to the next senior officer to see that the fire was well out, not a spark left burning before leaving.

Q. Who was the next chief officer? A. Chief Officer Wagner.

Q. How long did those engines continue to play? A. Well, they continued to play—the last engine between 1 and 2 o'clock in the morning.

Q. How long did all continue to play? A. Well, I could not state that hardly. I know they worked there I would say an hour and a half. Now in a fire we get rid of the engines as we can spare them, sending them back to the engine house to be ready for other fires.

Q. What was the condition of the fire when the first engine ceased to play and left? A. It was well under control, a little fire down about the boat, but the surrounding fire all well out. The 155 engines that we left back were capable of taking care of all the fire left.

Q. Did you see the tug Sarah that night? A. I did, sir.

Q. In respect to the time you arrived, when did you see her? A. I did not see her at all when I arrived there.

Q. When did you see her and what was she doing? A. She came up to the stern of the boat and started to play on the boat from that point.

Q. How long after you arrived? A. A considerable time.

Q. How many streams did the tug Sarah play on the fire? A. I only saw one, sir.

Q. Did you see any of the firemen on board the Columbia? A. Sir?

Q. Did you see any men of the fire department on board the Columbia working? A. Yes, sir; yes, sir.

Q. Where was the tug boat Sarah when you saw the firemen on the Columbia? A. As I stated before, she was on the stern end of the boat—the end that set out in the stream. I judge it to be the stern of the boat.

Q. When you arrived on the scene of the fire, were there any firemen on the Columbia? A. Yes, sir; the firemen were playing streams on the boat from the side of the boat. The dock was so arranged that the fire department could get straight on to the 156 boat from the north and fight the fire from the east and west sides of the two slips—between where the boat lay.

Q. It is claimed in this case, Mr. Belt, that the firemen could not play on this fire because they could not get their hose near enough, and because a shed, where their hose was located, burned and fell on them? A. That is not so, sir.

Q. How many of the lines of these eight engines were located in this shed that burned? A. Well, there might have been one, or two, or more. I could not say exactly. Probably the assistant chief would be able to say the number that was playing there. The sheds and the boat were adjoining almost you might say.

Q. It is claimed by the captain of the tug boat that the Columbia was sunk by the water which was played on her by the tug boat Sarah, and saved by the tug boat? A. That is not so.

Q. To what extent, in your opinion, was the saving of so much of the Columbia as was saved justly attributable to the tug boat? A. Well I could not say that—could not say how much was saved by her. The boat I had scuttled myself; the tug could not have scuttled the Columbia for the reason it could not be scuttled but at one end, and that was the stern end; the boat was fastened by chains and large windlass at the bow end of the boat.

Q. And what did you do to scuttle the boat? A. I gave orders to someone to loosen the chains and allow the boat to go down.

Q. And where, if you know, did the water come from in 157 her hold that enabled her to settle down? A. From the many streams of the fire department hose that were playing on the boat. I gave orders to the assistant chief and captains, to which they will testify, to cut holes in the top of the boat to allow us to put down the nozzle of cellar or deck pipes as we term them,—for putting out fire in holds of boats and such like.

Q. What are the cellar and deck pipes? A. They are reversible pipes that we use for putting out fires in cellars. They are used by cutting a hole in the floor and shoving pipe down. The pressure of the water revolves the pipe and puts out the fire within a radius of ten or more feet square.

Q. Do you know as a matter of fact whether this was done in the case of the Columbia? A. If this was done? Yes, sir.

Q. Who had charge of this work? A. Assistant chief at the time and two captains—they can verify that statement.

Q. What Captains? A. Mr. Brown and Mr. Proctor. I gave the orders and saw the work done myself.

Q. It is claimed by the captain of the tug boat that the firemen cut holes in the deck, but that it was the tug boat's hose that played into the hold; what can you tell us of the accuracy of that state-

ment? A. Well, I will leave that to the other witnesses who come behind me. My duties are as chief; they were men at stationary points and I had to be about at different places.

158 Q. Can you tell us whether you saw the fire department hose playing into the hold through these holes that were cut? A. Oh yes, sir; yes, sir.

Cross-examination.

(By Mr. ABERCROMBIE:)

Q. Chief Belt, when you arrived at the fire, what was the condition of things? A. You mean the fire?

Q. Yes, sir. A. The boat was burning pretty lively and a shed or two on the east side.

Q. How was the wind on that night? A. I should judge the wind was blowing south a little toward the west.

Q. You say you did not see the Sarah near the Columbia when you arrived? A. I did not.

Q. Would you say she was not there, or that you could not see her? A. If she had been there I could have seen her plainly.

Q. The Columbia would not have hidden her nor the smoke from the fire? A. I know if she had been there I could have seen her.

Q. In what direction did the Columbia point into the river? A. The Columbia as she lay in the slip laid in a northeast and south-west direction, I should judge.

159 Q. Just make a drawing indicating the position of the slip, and the position of the ferry boat in the slip? A. Yes, sir; this will be Water street where I write the word "Water street" (marking it); this will be the sheds where I write the word "sheds" (marking it); here will be a part of the river out here where I write the letter A. (marking it).

Q. First of all draw a line indicating the line of the river.

(Witness draws two lines and writes the word "river.")

Q. What does B indicate? (Marking "B.") A. The river, and I also write the word "river" there (marking it).

Q. Now, will you indicate on there, Chief, the east and the west sides, which is east and which is west? A. Yes, sir. (Witness writes the words "east side" and "west side" on the diagram; also the words "north" and "south.")

Q. Then the slip runs in a northwesterly direction from Water street? A. The slip?

Q. Yes. A. No, sir; it runs in a northeasterly and a southwesterly direction. It runs just as I have made it; it points out in the river in a southwesterly direction and I write the word "slip" where the slip is (marking it).

Q. How far when the Columbia was in the slip—how far does the side of the slip go out toward the end of the stern of the boat as she was there that night? A. I do not recall. You mean the dock or

the piles themselves? The slip is a lot of piles driven on each side where the boat lays up against in the dock.

160 Q. I would like to know how much of the wharf extends out on either side of the slip? A. On either side of the slip?

Q. Yes. A. There was enough room on each side for my companies to get down to very near the stern end of the boat.

Q. That does not exactly convey a definite meaning, Chief. Could you give it in distances? A. It is a matter that I have not measured—I am only giving my testimony from what I know of the length—I could not tell you the exact number of feet in width.

Q. This is what I would like to know: When you were there that night the Columbia lay in the slip; now, how far out beyond the Columbia was the dock or the wharf on either side—how far did it extend? A. I could not say.

Q. Did it come to midship or only come to the bow or come way back? A. It went to midship if not further.

Q. What does "C" represent? (Indicating "C.") A. "C" represents a dock.

Q. Has that dock any cover to it? A. No, sir.

Q. What is there alongside of the dock "C" and between that and the slip? A. Piles.

Q. How far do those piles extend? A. I do not know. They extend up in the air a little bit—I could not state the exact height of them.

161 Q. Which way did you approach the fire that night? A. When I arrived at the scene I went through the entrance of the ferry wharf to the front end of the boat that was afire at that point, went right up to that point (pointing)—then got around to this point (indicating "C").

Q. What does "D" represent? A. "D" represents the approach to the ferry boat slip.

Q. From Water street is that? A. From Water street.

Q. How did you come down Water street that night? A. I did not go down Water street. I went to the fire by way of the Capitol grounds to First street—I went into the fire from Seventh and M streets.

Q. I am not sufficiently informed as to the directions of these streets; when you came to the entrance of the slip, did you come from the south or the north? A. I came right down M street, across Water street from the east.

Q. It has been testified to by the crew of the Sarah that they arrived at the ferry boat at 9.30 that night and they tied up underneath the stern of the ferry boat as she lay at the slip. A. At 9.30?

Q. Now, is it not possible if she lay there and you came in where you have indicated with the ferry boat between you and the sheds and the piles that you have indicated—is it not possible that the Sarah may have been there and you not seen her? A. No, sir.

Q. Not possible? A. No, sir; as I stated before, I came around

her and had a perfect view of the stern of that boat around
162 by the harbormaster's and the morgue wharves.

Q. Did you see the Newport News pulling out that night?
A. No, sir; I saw the Newport News lying at the dock—that is a boat I heard was the Newport News—one of the Norfolk steamers that was lying up in the wharf—that is the Norfolk wharf. I could not say what boat it was, but I saw a steamer there and sometime afterwards I looked over and she had been moved. I did not see her move—when got my engine, namely No. 2, playing there she was off that dock.

(The diagram prepared by the witness at the request of Mr. Abercrombie, and from which he has been testifying, is here filed marked "Defendant's Exhibit No. 1.")

Q. Mr. Belt, will you indicate, please, the amount of destruction—what was destroyed by the fire that night? A. There was the steam-boat Columbia, one or two sheds and some portions of the dock, as far as my memory will carry me.

Q. Did you have any conversation with the captain of the Sarah?
A. I don't remember it.

Q. Did you meet him that night? A. I don't remember it.

Q. Who is Mr. Dutton? A. Mr. Dutton is now deputy in the recorder of deeds office.

A. Who was he at the time of the fire? A. The chief engineer of the District of Columbia fire department.
163 Q. Did you make a report to Chief Dutton of the fire? A. I did.

Q. Did you make a report of the services of the Sarah? A. I did.

Q. What did you report to him? A. I reported to him that the Sarah came up to the fire and—

Q. Was that report in writing? A. Yes, sir.

Q. I wish you would produce a copy of it. A. I do not remember whether there is a copy or not—there was a copy in the office.

(Mr. DARLINGTON: I agree that if a copy can be produced, the witness may produce and file it between now and our next session.)

Q. I show you a letter purporting to have been written by the chief engineer of the fire department to Captain Cannon, copied in record page 106 of the libelant's testimony; state whether you know anything of the writing of that letter. A. If I know anything of the writing of such a letter or that such a letter was written?

Q. That such a letter was written. A. I know that such a letter was written through me and by my request that the captain of the tug boat should be tendered thanks for his services that he rendered. It was given in the same spirit as—

(Mr. ABERCROMBIE: I object.)

A. I want to state, for the reason—

164 (Mr. ABERCROMBIE: I object to the witness testifying as to the spirit in which letter was given, such letter will speak for itself.)

(Mr. DARLINGTON: I insist that since witness has been interrogated about this letter, he has a right to explain it at least in so far as his connection with it is concerned.)

A. In all fires occurring under my supervision, I have made it a custom to thank everyone, if its men, boys or anyone, who renders any assistance whatever—I generally give them a letter of thanks, or verbally thank them for any services rendered. And that was the reason that letter was given on the night in question—for the same reason as I have stated before.

Q. It says here: "Assistant chief reports that you rendered great and valuable service" and tenders him his thanks. Tell me what those "great and valuable services" were? A. Well, the service was rendered coming up—the first I had seen of them, coming up the rear of the boat and playing stream at that point. I considered they did good service.

Q. Well, there must have been something to have caused you to have given a report which seems to indicate that great services were rendered? A. Well, if it comes to a question of that—I was about that time trying to get through a fire boat, and I wanted to show at the time, in one sense, that a boat like a fire boat would be of good service in the front. That was one of my reasons—and any-
165 one, no matter who it is, black or white, man or woman, while I have supervision of the fire department I intend to tender them thanks—for that and no other reason.

Q. Chief, Captain Cannon testifies that the firemen came and cut a hole in the deck of the Columbia, and that he, together with your firemen, used their hose and put it down underneath to put out the fire underneath the decks? A. I did not see anything of it.

Q. Do you know whether it was done? I mean from any report that was made to you? A. No, sir.

Q. Do you know how many holes were cut in the deck of the steamer? A. I know of two or more. Those behind me will tell.

Q. What was the character of the fire that night, Chief? A. What do you mean?

Q. Was it an ordinary fire or an extraordinary fire—what do you think of it? A. I think it was a pretty good fire—it required a third alarm to subdue it.

Q. How many engines responded to your first alarm? A. Three and one truck.

Q. And your first alarm, according to your recollection, was at 9-25? A. At 9-25.

Q. How long would it be before the first engine arrived? A. The first engine arrived there not over five minutes after the first alarm.

166 Q. Where is the nearest engine located? A. Virginia avenue, 4½ and 6th streets, southwest.

Q. How far away? A. That is about ten or eleven squares, I should judge, not over.

Q. This alarm that was sounded at 9-25 is recorded the same way in every engine house? A. Yes sir; every engine house has on the book the same thing.

Q. How many minutes would it take for the first engine to report from the sounding of that alarm? A. I have just stated—not over five minutes.

Q. I believe you did say that. A. It was recorded, as I stated in my testimony, that the alarm received at 9-25 was the first alarm—and a third alarm at 9-35. There was only ten minutes for those men to get down there—get their company out and then go to the box and get additional call.

Q. How long would it take for your second engine to arrive? A. Take my second engine?—take my second engine not over seven minutes.

Q. And third engine? A. About the same time.

Q. I understand you to say that at the first alarm there should be three engines and one hook and ladder? A. Yes, sir.

Q. Chief, do you know who was the first at the fire of the fire department? A. Yes, sir; the No. 4 Engine Company.

167 Q. No. 4 Engine Company was the nearest? A. Yes sir.

Q. And who turned in the second alarm? A. No. 4 Engine Company—Mr. Garner.

Q. You received the third alarm at 9-35? A. I received the third alarm at 9-35 and 5 seconds—we at the fire department deal in seconds.

Q. It took you how many minutes to respond? A. I gave myself about six minutes to get down;—got there in about that time.

Q. And, altogether on the three alarms you had out eight engines? A. We had seven engines and eight streams—two of these streams coming from one engine.

Q. When you were at the Columbia and saw the streams playing on the Columbia, did you see the stream of the Sarah playing on it? A. I saw the stream from the Sarah—

Q. What position were you in? A. I was in different positions.

Q. At that time? A. On one occasion I was on the west dock looking at the stream of water when she was playing on the stern of the boat.

Q. What part of the vessel was on fire at that time? A. The vessel was pretty much all on fire on the top.

Q. Were you standing on the west dock? A. On the west dock.

Q. How many lines of hose were playing on the Columbia?—of the fire department? A. All eight.

168 Q. All eight playing on the Columbia? A. All playing on the Columbia and adjoining sheds—eight adequate streams of water.

Q. What were the positions of the men holding the hose that played on the Columbia? A. At the pipe.

Q. I know, but with respect to the position of the Columbia? A. They were at different positions—some on the north, some on the east and some on the west.

Q. Was the hose placed so that the water fell on the Columbia? A. Yes, sir; right in on the boat—some of my streams were on the Columbia and some on each side of the Columbia playing on her.

Q. Is it not possible, Chief, that the heat was so great that before the water could fall into the Columbia, it was converted into steam? A. No, sir. The streams of water that we threw,—every one of them—made the dark mark when they hit, but on account of the construction of the boat the blaze and stuff was confined until it got down to certain points before any part of the fire, that I saw, was strong enough to convert any of the streams that were played by the fire department into steam.

Re-direct.

(By Mr. DARLINGTON :)

Q. How many streams did you say were played by the Sarah? A. I only saw one stream, sir.

WILLIAM T. BELT.

Subscribed and sworn to before me this 10th day of October, A. D. 1904.

[Seal of Laura A. Shugrue, Notary Public, District of Columbia.]

LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

169 WILLIAM F. LANAHAN, a witness of lawful age, produced on behalf of the libellee, having first been duly sworn, testified as follows:

WILLIAM F. LANAHAN.

Direct examination.

(By Mr. DARLINGTON :)

Q. What is your full name? A. William F. Lanahan.

Q. What is your position? A. Captain No. 6 Engine Company of the District of Columbia fire department.

Q. What was your occupation and position at the time of the ferry boat Columbia fire? A. Captain of No. 6 Engine Company.

Q. Were you at that fire? A. Yes, sir.

Q. When did you arrive? A. I could not give it exactly, but I went on the third alarm, and I judge it took me about eight or nine

minutes from the time I got the fire alarm until I arrived there, to the best of my knowledge.

Q. Where was your engine house situated? A. On Massachusetts avenue between 4th and 5th streets, northwest.

Q. When you arrived, please state in what condition you found the fire and what means were being used to extinguish it. A. When I arrived I found the ferry boat a mass of flames and also some sheds on fire—of course we went into service. The light was so great that as we turned from I street into Seventh street, northwest, we saw it from there and responded straight down Seventh street into Water street to the fire.

170 Q. Were any engines playing on the fire when you arrived? A. Yes, sir.

Q. Do you know how many? A. Only what I was supposed to know—I could not observe them—I was too busy.

Q. Did you see any streams playing? A. Yes, sir.

Q. Where did your engine and company take up their position? A. I took the hydrant at Seventh and K streets, laid out a line of hose through the entrance of the ferry wharf—then we opened the pipe water first on boat—on the bow of the boat, and from that worked to the west side of the boat, and then borrowed a small boat from Com. Sutton, worked that for a while—then got the use of the Carter—I think the George O. Carter—and then went up and down the stream working on side of boat putting water on ferry all the time.

Q. What difficulty did you have in getting near enough to the Columbia to play on her? A. None at all; one of the finest positions at a place like that I ever saw; it is not all times we can get in a position to surround the fire as we did there.

Q. How long did your engine continue to play on the fire? A. Two and a half hours.

Q. At the end of that time, what was the condition of the boat? A. A total wreck.

171 Q. Had she sunk? A. Yes, sir.

Q. What was the condition of the fire when you left? A. The fire was what firemen term "practically out" but where companies would be left to see that of a surety there was nothing left—no fire left from sparks.

Q. Did you see the tug Sarah that night? A. Yes, sir.

Q. Did you see her when you first arrived? A. No, sir; I did not.

Q. Where was she when you first saw her? A. Making into the stern of the ferry—stern of the boat.

Q. Had she begun to play on the fire at that time? A. No, sir; I saw no water from her.

Q. How long was that after you arrived? A. I judge about twenty minutes—I am not sure exactly.

Q. Did you see her when she commenced playing? A. Yes, sir.

Q. How many streams did she play? A. I saw one.

Q. What was the condition of the fire when she commenced playing? A. The fire was to the stern boat—had listed or sunk from the weight of the water that the fire department had already put in the hold.

Q. Did you see any firemen on board the Columbia? A. Yes, sir.

Q. What were they doing? A. Putting water on the fire.

Q. Was that before or after the Sarah had come up? A. 172 Before and after—both.

Q. Do you know anything, Captain, about holes being cut in the deck of the Columbia so that water could be played in the hold? A. No, sir.

Q. You were not engaged in that work? A. No, sir, I was to the west.

Q. What risk and danger, if any, did you see the Sarah or her crew exposed to in fighting that fire? A. None at all.

Q. The testimony is to the effect that they were exposed to the risk of falling timbers; what falling timbers did you see after the Sarah came up? A. None at all, because the stern was down and the frame work over that end was down before they came up.

Q. Did you see these burning sheds? A. Yes, sir.

Q. Did you see one of them fall down? A. Yes, sir.

Q. What effect did the falling of that shed have in preventing the firemen from working? A. None at all.

Q. What, if anything, do you know about some of the firemen being rescued from the Columbia by the tug boat Sarah? A. I know nothing about that.

Cross-examination.

(By Mr. ABERCROMBIE:)

Q. Mr. Lanahan, what shed was it that fell? On which 173 side of the ferry boat? A. I should say about north. The bow came in this way (indicating) and the shed about here (indicating).

Q. Did it not fall down on the hose of the fire department? A. Yes, sir; some of it fell on my hose—the shed was so light that it amounted to nothing.

Q. Did you pull your hose out or let it stay? A. One man went back and took the boards off that were lying on No. 6's hose, and others assisted.

Q. The shed was not anything? A. No, I would not say that, but the weight of the shed on the hose amounted to nothing.

Q. Were you on the Sarah at all? A. Yes, sir; I went aboard the Sarah after she tied up to the west side of the dock.

Q. That was after the fire was out? A. Yes, sir; I was looking around—we had been ordered home.

Q. What did you do on the Sarah? A. Just looked into the engine room.

Q. Did you have any conversation with the engineer or captain ?
A. No, sir ; nobody on board the boat at all.

Q. You cannot fix the time when you arrived at the fire, Mr. Lanahan ? A. No, sir ; that would be very hard for me to do—especially if you do as we firemen do—deal in seconds.

Q. Where are you located ? A. The engine house is located at Massachusetts avenue between 4th and 5th streets, northwest.
174 A. How far is that from the fire ? A. I judge nearly two miles—rough estimate.

Q. About two miles ? A. Yes, sir.

Q. How long does it take you to go two miles ? A. I think we had water on that fire within nine or ten minutes from the sounding of the third alarm.

Q. Then in nine or ten minutes from the sounding of the third alarm you could have your horses hitched, run two miles and attach your hose and have your hose running out—in nine or ten minutes ?
A. Yes, sir ; have water on.

Q. Pretty fast time, Mr. Lanahan ? A. No, sir, I am giving a little slow to make sure—straight run from No. 6 after you turn into Seventh street.

Q. Mr. Lanahan, you spoke of getting the use of the Carter—the James O. Carter—the tug ? A. Yes, sir, it is a tug.

Q. How did you happen to get the use of her ? A. I knew that if I could get the tug on the outside of the west pier—if I could get down far enough to the south end of the ferry, I could put water on the fire where we were not reaching it, and I hailed the captain of the Carter and asked for the use of the tug, and I took my company on board of her and worked on the Columbia up and down the west side—by the ferry I mean the Columbia.

Q. While you were doing this did you not see the Sarah ? A. Yes, sir, I saw the Sarah.

Q. What part of the boat was she lying at then ? A. At the south end.
175 Q. She was lying at the end from which she could do effective work ? A. No, sir, I would not say that.

Q. Was she practically in the same position that you were when you were on the Carter ? A. No, sir. I was up and down the Columbia along the sides of her and she was at the south end ; she was stationary and I was moving.

Q. Chief Belt has testified that the slip on either side extended almost down to the stern of the boat—how could you play water on her, if that was so, from the tug Carter ?

(Objection by Mr. DARLINGTON: Counsel incorrectly recalls Chief Belt's testimony which was that the slip extended amidship the Columbia and probably further.)

A. From the tug Carter ? In the first place it is a low wharf, and the slip is not over ten or fifteen feet in width.

Q. Make a drawing of the position of the slip, the ferry boat and

the tug Carter and the tug Sarah as you observed them that night.
A. The boat lay in the slip (indicating), this slip ran about there
(A will be the end of it), a short cross line indicates the slip ; here
would be door entrance (writing the word "door")—and this shows
water where I write the word "water." When I first saw the Sarah
she was where I have written the word "Sarah." I worked from
here (indicating cross mark) when I first started to work—then came
up this slip (indicating "A")—on the west side of the Colum-
bia—I first observed the Sarah from the slip marked "A."

Q. Did you get on the Carter then? A. Yes, sir. I first
borrowed a small boat from Com. Sutton, the harbormaster, but
could not do what I wanted with it, then hailed the captain of the
James O. Carter and asked him if he would let me get aboard with
my company, which he did, and then came right around it here,
where the circular line marked "C" is.

Q. And from the Carter you played the hose on the fire? A.
Yes, sir.

Q. Were your efforts directed against the Columbia, or against the
shed on the pier? A. Against the Columbia.

Q. What was the condition of shed "A" at that time? A. That
is no shed at all—merely a flat flooring.

Q. What was the condition of the pier at that time? Was it
burning? A. No, sir; underneath a few small places burned—not
to endanger the pier in any way.

Q. What was destroyed that night? A. The Columbia and sheds
belonging to the ferry boat company—at least a part of the sheds.

Q. At what time did you leave? A. I can't exactly tell, but I
could by using the 'phone to my engine house.

Q. How long were you at the fire? A. My working time was two
and one-half hours exactly—that is the time from when the engine
started to play until she stopped.

177 (At this time the diagram made by the witness at counsel's
request, and from which he has been testifying, is here filed
and marked "Exhibit No. 2.")

Q. Who was the captain of the Carter? A. I don't know.

Q. Is she a Washington tug? A. To the best of my knowledge
and belief, she is, sir.

Q. Would you know the captain's name if mentioned? A. No,
sir, I would not.

Q. What service, captain, do you think the Sarah rendered that
night? A. Well, sir, I could not say she rendered any that night—
that is my honest conviction.

Q. Do you think you rendered much service when you and your
company were on the Carter? A. Yes, sir, I do.

Q. What service do you think you rendered then? A. What
service do I think I rendered?

Q. What effective service? A. In putting out the fire where no
other company's water was reaching.

A. You had one line of hose on the tug Carter? A. Yes, sir.

Redirect examination.

(By Mr. DARLINGTON:)

Q. How long did it take you to hook up your engine at the third alarm? A. About one minute or so.

Q. How do you keep your horses in regard to harness? 178 A. In perfect condition.

Q. I mean do you keep the horses already harnessed? A. I do after the first alarm—for twenty minutes—before I unhook them. Consequently this left me hooked up for the fire when the third alarm came.

Q. When the third alarm was given you were ready to start? A. Yes, sir.

(Signed)

WM. T. LANAHAN.

Subscribed and sworn to before me this 11th day of October, A. D. 1904.

[Seal Laura A. Shugrue, Notary Public, District of Columbia.]

LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

179 CHARLES B. PROCTOR, a witness of lawful age, produced on behalf of the libelee, having first been duly sworn, testified as follows:

CHARLES B. PROCTOR.

Redirect examination.

(By Mr. DARLINGTON:)

Q. What is your name? A. Charles B. Proctor.

Q. What is you position, Mr. Proctor, in the fire department. A. Captain No. 3 Engine Company of the District of Columbia fire department.

Q. Did you occupy the position on the night of the ferry boat Coumbia fire? A. I was then foreman of No. 4. Engine Company. You see our titles have been changed since then.

Q. Were you at this ferry boat Columbia fire? A. Yes sir.

Q. What was the first engine that arrived at that fire? A. I can't say; No. 4. was due there first. I was off that night.

Q. That was your night off duty. A. Yes, sir.

Q. Were you at the fire? A. I was, sir.

Q. About what time did you reach it? A. I should judge I reached it in the neighborhood of about 40 or 45 minutes after it started—that is from the first alarm.

180 Q. From the first alarm? A. Yes, sir.

Q. Did you hear the first alarm? A. No, sir.

Q. How did you learn that there was a fire? A. I lived just around the corner from No. 10 engine house.

Q. Where is that? A. Maryland avenue between 13th and 14th, northeast.

Q. How far is that from the scene of the fire? A. I should judge in the neighborhood of three miles and a half.

Q. How did you learn of the fire? A. One of No. 10 men notified me that No. 4. had gone to 428 box, and there was a third alarm in. I immediately proceeded to 12th and H streets, northeast, got on the Columbia car, proceeded to 7th and K streets, took a 7th street car to 7th & K streets, southwest, and then went to the scene of fire.

Q. Seventh and K streets, southwest? A. Yes, sir.

Q. When you arrived what did you find to be the condition of the fire, and what efforts were being made to extinguished it? A. I found eight engine companies—seven engine companies rather—working on the fire, my company having two lines, making eight streams of water. I proceeded on the boat, the fire was then confined mainly to the hull—the men were working then through the grating and the holes they had cut through the flooring of the boat.

181 Q. Can you tell us how many holes were cut? A. I know there were several holes cut. We worked mainly through the iron grating next to the smokestack over the engine room.

Q. What was the condition of the fire at that time? A. It was confined mainly to the hold.

Q. Did you see the tug boat Sarah at this fire? A. I did.

Q. Where was she when you first saw her? A. When I first saw her she looked to me as if she had made a turn at the stern of the boat, south end.

Q. How far from the stern was she when you first saw her? A. Ten or twelve feet.

Q. Was she playing at that time? A. No, sir.

Q. How soon after that was it that she began to play? A. As soon as she got straightened out across the stern of the boat she opened up a line of hose.

Q. How many streams did she play? A. One.

Q. How long did you remain, Captain? A. I remained until the last company left the fire ground—which was my company—in the neighborhood of 2.42 a. m.

Q. What was the condition of the fire at that time? A. The fire was out—entirely out.

Q. It has been testified in this case that the fire department left the fire while the sparks were still blowing about and that the crew of the tug boat Sarah were employed for an hour or more 182 after they were gone watching and extinguishing the sparks; what can you tell us of the accuracy of these statements?

A. There is not a word of truth in it. She had banked her fires for the night—I talked with him before I left there.

Q. Whom do you mean by him? A. I mean the chief engineer of the Sarah.

Q. Did you see any firemen aboard the Columbia? A. None except my men of the No. 4 Engine Company—after the fire was out.

Q. While the fire was burning and the firemen were about and at the fire or playing directly—did you see any on board the Columbia? A. The firemen?

Q. Yes. A. No, sir.

Q. Did you see any of the crew of the Sarah on board her at any time? A. The Columbia?

Q. Yes. A. I saw two of the crew of the Sarah—they pulled up beside the stern of the Columbia after the stern settled in the water and came over to where we were working at the hold.

Q. Where were you and your men? A. Beside the smokestack on the Columbia.

Q. Then you did see some firemen working on the Columbia? A. None but my own men—I saw our men working there—I did not see any of the Sarah's men on the Columbia with a line 183 of hose—I saw them at the stern throwing a stream that I would call a Johnston stream at that, putting a one inch stream and a pretty poor stream at that.

Q. Where were you when the Columbia sank? A. I had just left the boat by orders of the chief.

Q. What do you know of any of the firemen being rescued from the wreck by the tug Sarah? A. I saw nothing of it.

Q. When you and your men left the Columbia from the bow of the boat were any other firemen left upon her? A. There may have been one or two coming off with us—that is men belonging to the District of Columbia fire department were coming off her.

Q. Do you know of any of those firemen getting off from the Columbia on to the tug Sarah? A. They could not have got off on the Sarah—the stern was below water where the Sarah was laying.

Q. What, if anything, do you know about firemen borrowing a small hose from the Sarah, worked by a donkey pump, and used to put out sparks? A. No, sir, I don't know anything about it.

Q. Who did the work of extinguishing the sparks after the main fire was over? A. I did, sir, with our steam and a Johnson pump.

Q. Whose was the Johnson pump you used? A. It belonged to the District of Columbia fire department—I got the water from a bucket off the Sarah—there were a few small sparks under the edge of the wharf.

Q. What risk and danger to the tug boat Sarah and crew did you see during the fire? A. None, whatever—wind was not blowing toward them.

Q. What do you know of their being exposed to falling 184 timbers. A. None whatever—there were no timbers to fall.

Q. It is claimed in this case that the fire department could only get their hose to the locality in which there was a burning shed, and that the shed fell down, and that before the fire department could

get their hose out from under the fallen shed, the Sarah's crew were fighting the fire. What do you know about that? A. That is not so; all that remained of that shed to fall were a few boards charred in two, and the main bulk of it that fell on the hose was tin, and that had no pressure on the hose to decrease the flow of water at all.

Q. Was it your company? A. No. 6 company and an extra line of our company.

Q. What delay or obstacle to fighting the fire resulted from the falling of that shed? A. None whatever.

Q. The captain of the Sarah has testified in this case that it was he and his tug who saved the Columbia? A. I would hate to own the Columbia and depend upon them to save it.

Q. In so far as you observed, what proportion of the work of saving the Columbia was done by the tug Sarah or her crew? A. I saw them putting out a few charred timbers on the stern of the Columbia—that is all the work I saw them do.

Cross-examination.

(By Mr. ABERCROMBIE:)

185 Q. Mr. Proctor, do you think the Sarah's fighting apparatus consisted of a Johnson pump? A. Oh no! but I think it had as much to do with that fire as a Johnson pump would. She only had one 1 inch stream and I could not see anything remarkable about that stream. The reason I know that it was a one inch stream is because the engineer of the boat showed me the pipe and tip and line that they used and said that if he had been equipped properly to fight fires he would have shown us how to fight fires, but he did not have the appliances—something of that sort.

Q. Well, as I understand your testimony, the only hose you saw them play was a one inch hose? A. Oh, not a one inch tip—a one inch stream.

Q. Where did you see them play this one inch stream? A. At the southern end of the Columbia, which we call the stern because she is open at both ends and runs both ways.

Q. If you were told, Mr. Proctor, that the Sarah had a three inch hose and a one inch hose, and that the one inch hose was not used until the necessity for the three inch hose was over, what would you say to that? A. Well, I would not have thought for a moment that the chief engineer would tell me something that was not so. He told me out of his own mouth that he used this one inch tip and line.

Q. Did you say that he did not use any other? A. He said — was not equipped to use any other—if he had been he would have done so.

Q. The chief engineer has been examined in this case, Mr. Proctor, and testifies at page 113, questions 19 to 24 inclusive, as follows:

186 " 19 Q. Do you know from your knowledge of the pump that is on the Sarah—or was on the Sarah at the time of that fire, what the size of it is? A. Yes sir.

" 20 Q. What is it? A. It is 10 x 8 & 12. 10 inch steam, 8 inches the stroke and 12 inch water end.

" 21 Q. How many line of hose will that pump of your supply? A. Two.

" 22 Q. What size? A. $3\frac{1}{2}$.

" 23 Q. $3\frac{1}{2}$ what? A. $3\frac{1}{2}$ inches.

" 24 Q. Do I understand it supplies two lines of pipe $3\frac{1}{2}$ inches in diameter? A. Yes sir."

That is the testimony of Mr. Klages, the chief engineer, as to the size of the pump and the size of the stream that it will throw,

A. But he does not say he used it.

Q. But he testified that he used it? A. Well, I am on my oath and can say that while I was at the fire I saw no sign of a $3\frac{1}{2}$ stream there from the District of Columbia fire department or from his boat.

Q. Did you see his pump? A. Saw his pump? Yes, sir.

Q. Do you know what pump it was? A. Saw the whole thing.

Q. Do you know the name of the pump? A. No, I know nothing.

Q. So you know nothing about the size of pumps etc.? A. 187 No, sir, I did not pay particular notice to that—all that he showed me was his pipes,—a brass pipe he had there.

Q. Mr. Klages testifies at page 114, questions 30th to 35th inclusive, as follows:

" 30 Q. Did you receive the order to start your pump? A. I did.

" 31 Q. Who gave the order? A. The captain.

" 32 Q. Captain Cannon? A. Yes sir.

" 33 Q. And you started your pump going? A. Yes sir.

" 34 Q. How long did you work? A. Now, it was nine something—I did have it down, but I have hardly forgot—up until half past one before we stopped with the large pump.

" 35 Q. After you stopped with the large pump, what did you do? A. The firemen from the fire department came on the wharf and a stringer piece to the wharf was on fire and I lent them our little deck hose ($1\frac{1}{2}$ inches) and they used that to kill the fire on the stringer piece along side of where the boat was lying at the time."

A. There was no hose borrowed from them at all.

Q. As far as you know? A. I was right there—I was the man who put out the stringers that were on fire under the wharf. The following witnesses will substantiate that.

Q. Well, what would you say if I told you that the captain, the chief engineer, the mate, and the deck hands, all testified to 188 the same thing? A. I would say that he did not tell me the truth in the first place, and that I will say on my oath that they did not use the stream while I was there and I was there until 2-42 and then there was no fire left to be put out.

Q. Then I understand by your testimony they are telling what is not the truth? A. From what they say there it must be so.

Q. You would not like them to say the same thing about you? A. Oh, they can say about me whatever they desire, I have no objections—as far as my eyes do not deceive me I know what was used there.

Q. What I am going to ask is this: Isn't it possible that you may have been mistaken and that a $3\frac{1}{2}$ inch was used? A. I have been in the fire department going on 12 years and I certainly would know the difference between a 1 inch and a $3\frac{1}{2}$ inch stream.

Q. But that does not answer my question, which is: Is it not possible that you may have been mistaken and that a $3\frac{1}{2}$ inch was used, and that they did use a three inch and a half hose at that time? A. Oh, I understand that. No, I am not mistaken—I know that they did not use it.

Q. Did you see the Carter that night? A. No, sir.

Q. Did you see Mr. Lanahan working off the tug Carter with a line of hose on it? A. No, sir—I saw him working off a boat but did not know what boat it was.

189 Q. Was it a small boat? A. Yes, sir.

Q. Well, you did not see him on the tug boat? A. The tug boat is a small boat.

Q. You have been so positive in your testimony as to the use of an inch and half hose on the Sarah, and that no other size was used, why can't you tell with the same explicitness whether or not Mr. Lanahan was on a tug boat? A. You asked me did I see him on the Carter, and I said I did not know. I did not see the Carter that I know of—but he was on a tug boat—I could not say it was the Carter—I do not know.

Q. You saw Mr. Lanahan and the men from his company working from the tug boat? —. Yes, sir; that is I saw a company belonging to the fire department playing from the tug boat.

Q. You did not know them? A. I could not tell them—it was night time—I could not recognize them but I saw it was a company of our men working.

Q. Where were they throwing water? A. On the Columbia.

Q. Then at the time you saw this water from this tug boat, did you see any other tug boat around? A. Nothing but the Sarah and this boat on the stern.

Q. You saw both at the same time? A. Yes, sir.

Q. What was the Sarah doing? A. She seemed to be stationary at the stern of the boat.

190 Q. Was she throwing any water at that time? A. Yes, sir, throwing a small stream.

Q. Were you on the Columbia nearly all the time of the fire? A. Yes, sir, that is from the time I arrived there.

Q. Of course, you could not have been there before. I will read you from page 13 of the testimony of Captain Cannon of the Sarah, the 24th question and answer:

"34 Q. Just describe what you did after arriving at the Columbia ; that is after you had tied up to the Columbia, where did you begin fighting the fire ? A. From up in between her decks. When I arrived alongside of the steamer and made my tug boat fast on this end projecting out into the river I came down out of the pilot house and took hold of the nozzle attached to the hose and got on the ferry boat deck and went up into the driveway. They have a driveway on each side of the ferry boat. I was fighting that fire over head until the inside work fell and we then played the water around the engine and boiler room where the heat was the greatest. I did that to save that boiler and engine the best I could and then there was a iron brace and the wood had burned from around it and that fell down across our hose and we had to get our hose out and put it above the brace that fell down—hog brace I guess they call that. I then went up on the port side of the ferry boat and then the firemen got in there and cut a hole down through the deck where the wagons drive through, where there was some fire down — the lower engine room and put that out. We got out of there and played where the fire was close to the coal bunkers ; the flames began to rush out of there and in a minute we stuck the hose down

191 through and put that all out ; then the fire was between the engine room and boiler. I saw the blaze flaming up through there and we put the hose on the deck and had to kneel on it to hold it and after we got the nozzle down on deck I got on it with my knees and worked it around between the decks and between the beams and the water was running down in the hold until she took water in the ash pit. The captain told me afterwards that the ash pit was open."

Did you see that ? A. No, sir.

Q. Did you see any of them ? A. No, sir.

Q. Did it occur ? A. The fire in the hold ?

Q. Yes. A. Yes, sir, we were fighting with three or four hose—the assistant chief engineer had an extra company there with our extra line with a cellar pipe to it—No. 3 Engine Company was there—the Sarah was on the stern.

Q. I will continue Captain Cannon's answer at page 15, as follows : "The water came through this ash pit and then she began to go down pretty fast and as she was going down the end of this ferry boat laid their guard on to my guard on to my guards—the fender we call them, caused their guard to pay on the tug boat's guards and started to careen the tug boat over. My engineer hollered to me and said Captain we are caught on the end of the steamer ; she is caught on our guard. I moved the engine ahead and by moving the engine very quick released this hold and of course the tug boat was released from this end of the steamer that was resting on her

192 guards. After the steamboat sunk we came alongside of the pier that formed the slip where the ferry boat lay. We then put on our small hose—had the hose on—then played the small hose on the donkey pump on the *the* sparks on the steamboat

and on the wharf here and there and we laid there until morning; that is after the steamer had sunk."

Q. Did you see any of them? A. No, sir.

Q. Did you see tug get caught on the guard, back off and come up again? A. No, sir. I did not see it—it may have happened—I did not see it.

Q. How about the latter part of that answer came up and used their small hose? A. No, sir; I said before they didn't and say that yet.

Q. Did you see the tug boat move and come up to the dock? A. Yes, sir, saw that.

Q. You did not see her use her small hose except on the stern? A. No, sir, except on the stern.

Q. You do not know exactly what time it was you arrived at the fire? A. No, sir, can't say—in the neighborhood of 40 to 45 minutes after it started.

Q. You testified that when you arrived there, there were seven engines working and your company was running two lines of hose making eight streams in all. How do you know there were seven engines there? A. Because the third alarm calls for seven engines.

Q. You did not count them? A. They better had have been there. If any one of them had not responded, another one
193 would have been there to take its place.

Q. What I am getting at is this, as a matter of fact, Mr. Proctor, you did not see or count the engines that were there, you only know from the regulations of the department that in answer to that third alarm there should have been seven engine companies there? A. That is right, sir.

Q. How many streams of water, Mr. Proctor, did you see playing on the Columbia? A. I remember of seeing six.

Q. You remember six that you actually saw playing on the Columbia? A. Yes, sir, I saw that many myself.

Q. What progress had the fire made when you arrived? A. The main bulk of it had been driven down to the hold of the boat.

Q. Then the superstructure had been destroyed when you arrived? A. Yes, sir, the major part of it.

Q. And you cannot fix the time exactly when you arrived? A. I cannot.

Q. How much fire was in the hull of the steamer? A. Not all of it, but the bulk of it mainly.

Redirect:

Q. What size stream of water do your fire department engines throw? A. My company?

Q. Yes. A. $1\frac{1}{2}$ and $1\frac{1}{4}$.

194 Q. Is that the standard size for the fire department? A.

There are different sizes in the fire department. That company there had that size stream. They ran some of them and there were some $1\frac{1}{2}$ streams there that night—you see that is a third class

engine—there were some first class engines there that night—my company had a third class engine—there were extra first class engines there.

Q. What firemen helped you to put out this stringer on the edge of the wharf and did you have any water buckets from the Sarah.
A. Why, my company helped me to put it out—one of the Sarah's men gave us a bucket of water—we had our own bucket there too.

Q. So that particular part of the fire was put out with buckets of water instead of a hose? A. That was put out with a bucket, a Johnson pump and $\frac{1}{2}$ of an inch stream.

Q. If I understand you, a number of the tug Sarah's crew brought a bucket of water and you worked your Johnson pump? A. He gave us a bucket of water and we used our Johnson pump.

Q. Do you remember which of your men helped you there? A. Mr. Garner and Mr. Corder.

Q. These six streams that you saw playing, did that include the stream from the Sarah? A. No, sir, I am talking about the District of Columbia fire department streams.

195 Recross-examination:

(By Mr. ABERCROMBIE:)

Q. What was the largest size hose of the fire department playing on that fire? A. I do not know what the largest size was, but I should judge probably $1\frac{1}{2}$ from 3 lead, that is from the fire hydrant.

CHARLES B. PROCTOR.

Subscribed and sworn to before me this 10th day of October A. D. 1904.

[Seal of Laura A. Shugrue, Notary Public, District of Columbia.]

LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

196 TIMOTHY J. BROWN, a witness of lawful age, produced on behalf of the libelee, having been first duly sworn, testified as follows:

TIMOTHY J. BROWN.

Direct examination.

(By Mr. DARLINGTON:)

—. What is your full name? A. Timothy J. Brown.

Q. What is your occupation? A. A member of the District of Columbia fire department.

Q. What company did you belong to in May of last year? A. Engine Co. No. 3. I was at that time foreman of that company. I am now captain of No. 2. Chemical.

Q. Were you at this ferry boat Columbia fire? A. Yes sir.

Q. To which of these several alarms did you respond? A. To the third alarm.

Q. Where was No. 3 engine house? A. Delaware avenue near C. street N. E.

Q. About how far is that from the scene of the fire? A. About a mile—a mile and an eighth.

Q. Do you know at what time Company No. 3 arrived at the scene of the fire? A. About seven minutes after third alarm came in. We were close to Chief Belt.

Q. When you got there, Captain, did you find any fire companies fighting the fire? A. When I got where?

Q. At the fire. A. I found my own company fighting.

Q. Did you get there after your company or did you come with them? A. After. The pipemen got there first.

Q. Did you see any other companies there? A. I saw streams there, if that is what you mean.

Q. You saw streams already playing? A. Yes, sir.

Q. Do you remember how many streams you saw playing? A. I did not count them.

Q. Were there more than one—several? A. Others beside mine.

Q. Did you see the tug Sarah? A. No, sir.

Q. Did you see her at any time? A. I saw what they called the Sarah.

Q. Where was she when you first saw her? A. At the outer end of the Columbia.

Q. What was she doing? A. Playing on the boat.

Q. How many streams did she play? A. I could not tell you.

Q. Can you tell us anything about the size of the stream she was playing? A. I could not tell the size of the stream—I judge $1\frac{1}{2}$ hose.

Q. What was your position at the fire—where were you located? A. At the inner end of the boat.

Q. Do you mean the bow end? A. I mean the inner end—inner, to the shore—outer, to the water.

Q. Were you on the Columbia? A. Yes, sir.

Q. Where were you when you first saw the Sarah or the tug boat at the stern? A. On the Columbia.

Q. How long had you been at work before you saw the tug boat on the stern? A. I could not tell exactly—possibly 15 minutes.

Q. Do you know whether the tug boat was at the stern when you first arrived? A. No, sir, I do not know.

Q. When did you leave? A. Well to get around it approximately—the 7th Street cars had stopped and that is as near as I could give it to you. They do not stop until along after one o'clock.

Q. What was the condition of the fire when you left? A. Practically out.

Q. Did you see any fire at the time you left still burning? A. No, sir.

Q. Did you know whether there was any fire at the time you left?
A. I do not know that there was any.

Q. What work were you and your men doing on the Columbia?
A. Holding the pipe into the hold of the boat.

Q. Do you know how many hose were playing into the
199 hold of the boat? A. There were three that I know of.

Q. Do you know what companies were there besides yours?
A. I do not.

Q. Did you see the crew of the tug boat Sarah on board the Columbia? A. I saw two men of that tug boat—I cannot say it was the Sarah.

Q. What were they doing? A. They were at their pipe.

Q. And what were they doing with their pipe? A. Putting water in the hold along with ours.

Q. Through the same hole? A. Yes, sir.

Q. About how long did they throw water down into the hold?
A. With us, sir?

Q. Yes. A. A couple of minutes.

Q. Did you see the men of this tug boat do any other work on the Columbia? A. Yes, sir.

Q. What other work? A. Using the stream back and forth upon the embers.

Q. What was the condition of the fire at that time? A. We would term it the ruins of a fire.

Q. The fire was practically under control? A. Oh, yes.

Q. When did you leave the Columbia? Before or after she sank?
A. Just as she was going down.

200 Q. At what point did you leave her? A. The point I went on—the inner end of her.

Q. Do you know of any of the firemen leaving her by way of this tug at the stern? A. I do not.

Q. Did you see a shed burn and fall down? A. No, sir.

Q. You did not see that? A. No, sir.

Q. Mr. Brown, it is testified by the captain of the tug boat that the fire department left the scene of the fire before the fire was out and the tug put out the sparks. Do you know anything about the truth of that? A. I could not say if there is any truth in it.

Q. When you left what companies remained behind? A. No. 4 Engine Company.

Cross-examination.

(By Mr. ABERCROMBIE:)

Q. You responded to the fire at what alarm? A. The third alarm.

Q. At the third alarm? And it took you about 7 minutes to get to the fire? A. I thought so.

Q. What was the condition of the fire when you arrived there?

A. To describe that and not to be theatrical, it would remind you of the last days of Pompeii as represented by Payne.

201 Q. Where did your engine tie up at the hydrant? A. At L and Robinson streets.

Q. How far was that from the fire? A. Two short squares from the fire—a minor street makes it short.

Q. How did you run your line of hose? I mean as to when you got to the fire how did you run it—in the entrance of the ferry boat or outside on the dock? A. The entrance to the ferry boat—was the only way I could get in.

Q. I want to know whether you played from the outside or the inside of the ferry boat company's property? A. Where I played from and where I ran the line of hose are two different questions.

Q. First tell what you did? A. I ran the hose through the entrance, and played the hose from the inner end of the Columbia boat.

Q. Then as I understand it, you played the hose from the ferry boat? A. Yes sir.

Q. You were on the ferry boat? A. Yes, sir.

Q. What was the condition of the ferry boat at that time—how much had she burned? A. The frame work above us all afame then—according to the flames that was at the part that was least protected by the iron—wood work fell—they were pretty well burned.

Q. Had the superstructure gone down, or was it still up burning?

A. Partly down and partly intact.

202 Q. Where seemed to be the most fire, up above or down below? A. All over.

Q. It seemed to be burning more fiercely below than above? Q. In the hold do you mean?

A. No, not exactly in the hold but along the deck.

Q. The superstructure was what was on fire when I got there—the visible burning.

Q. And that superstructure had been how far destroyed? A. That is a matter that an architect could not describe, let alone me.

Q. When was it that you saw the hose that was being played from this tug boat, supposed to be the Sarah? A. I could not exactly tell—possibly 15 minutes after I got on the boat—that is not definite—I could not say.

Q. Did you see the hose? A. Yes sir.

Q. What size was it? A. I cannot tell you—about $1\frac{1}{2}$ inch.

Q. What size hose did you play? A. $2\frac{1}{2}$ inch.

Q. Did their hose seem to be as large as yours? A. No, sir.

Q. It was not? A. No, sir.

Q. You say you had been working there 10 or 15 minutes before you saw the Sarah? A. I think so.

203 Q. About that time you had been working there when you saw the tug which we call the Sarah? A. I suppose so.

Q. Can you say whether or not she was there before that? A. No, sir.

Q. You mean you could not say? A. No, sir.

Q. She may have been but you cannot tell definitely? A. I could not see her.

Q. When you left, the fire was practically out? A. Yes, sir.

Q. Possibly there may have been some sparks there after you had gone? A. There is nothing that is impossible.

Q. But it is probable is it, that there were some sparks there? A. Not probable in that case.

TIMOTHY J. BROWN.

Subscribed and sworn to before me this 10th day of October, A. D. 1904.

[SEAL.] LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

204 WILLIAM J. GARNER, a witness of lawful age, produced on behalf of the libelee, having first been duly sworn, testified as follows:

WILLIAM J. GARNER.

Direct examination.

(By Mr. DARLINGTON :)

Q. What is your full name? A. William J. Garner.

Q. What is your position now in the fire department? A. Lieutenant.

Q. Of what company? A. Engine Company No. 15.

Q. What was your position on the 13th day of May 1903? A. Assistant foreman of Engine Company No. 4.

Q. Were you at the Columbia ferry boat fire? A. Yes, sir, I was.

Q. With what company? A. No. 4—first engine got there.

Q. Who was in charge of her when she arrived? A. I was; I put the third alarm in when I arrived on the ground.

Q. Where was the captain of No. 4? A. He was off that night—he came later.

Q. How many engines responded to the first call? A. Three engines.

Q. Do you remember which engines they were? A. Yes, sir.

Q. What were they? A. Engine companies Nos. 4, 8 and 205 12.

Q. Did any respond to the second call? A. I did not put in the second call—I put in the third.

Q. Do you remember which was the first engine company to arrive after the third alarm was put in? A. I do not remember—I was with my company. I do not know.

Q. Do you know at what time you reached the fire? A. Yes, sir. I reached it about 4 or 5 minutes after the first alarm was in—first

alarm came in at 9.25, and I was there about five minutes after. When I turned Sixth street I saw it was a pretty big fire and I forced the horses.

Q. How soon was it that you arrived before your company commenced playing on the fire? A. We commenced right away—ordered a line out, and put in the third alarm—we had two lines.

Q. Did you play both those lines? A. Yes, sir.

Q. And how soon after you arrived, as near as you can give it, was it before those lines were playing on the fire? A. Very shortly—it was near—it was a short lay out.

Q. By that you mean the distance from the hydrants to the fire was short? A. Yes, sir.

Q. In minutes, how long was it before you commenced to play? A. Both lines?

Q. Yes. A. About a minute.

206 Q. Can you tell us in minutes how long it was after you arrived before the other two engines that responded to the first alarm were playing? A. I cannot say—I heard them coming in pretty swiftly—I was working with my company—but I heard Assistant Chief Wagner directing the companys what positions to take.

Q. What position did your company take? A. We took the front right in where the bow came in to the wharf.

Q. How near the boat did you get? A. We went on the boat.

Q. How soon after you arrived was it that you got on the boat? A. We fought our way right in.

Q. How long did you remain on the boat? A. We stayed there until we left. We were the last company to leave—she kind of started to sink—we got off but went back on her again.

Q. Do I understand that when you first arrived and got ready to play you went on the boat to play on the fire? A. Yes, sir.

Q. You remained on the boat playing until she started to sink? A. Yes, sir.

Q. Do you know what kept her from sinking then? Or did she sink? A. She went down.

Q. Do you remember whether there were any other men on the Columbia except your company's men? A. No. 3 was on there and I think No. 2 and perhaps others were with them—I know No. 3 was there.

207 Q. About how many firemen altogether were on the Columbia before she sank? A. I would not like to say—most of them I expect were of our company who were there at the time.

Q. How many men were in your company? A. We had 12 men, but there was one on furlough at that time. 11 reported.

Q. And you think nearly all of them were on the boat? A. Yes, sir—our company were there.

Q. Besides some men from Nos. 3 and 2? A. Yes, sir.

Q. What other work did you do beside playing on the fire with

your hose? A. Toward the last Chief Wagner ordered us to put a cellar pipe down the grating.

Q. And you did that? A. Yes, sir.

Q. Did you or your company have anything to do with cutting holes? A. No, sir, our company was not cutting holes. There was cutting of holes but I think it was the truck company did that.

Q. You say that your company was the last to leave? A. Yes, sir.

Q. What was the condition of the fire when you left? A. It was all out.

Q. There is some testimony in this case that, when the fire department left, the fire was not out, and that the tug boat with her small hose remained to put out the sparks and things? A. No.

Chief Wagner remained there and we went all over the boat,
208 and when he left he told us to stay there until we were sure there were no sparks, which we did.

Q. How did you get off the Columbia when she sank? A. There is a little wharf that we got on.

Q. You stepped from the Columbia on to the wharf? A. Yes, sir.

Q. It is claimed in this case that the tug boat Sarah rescued some of the firemen in getting them off the Columbia? A. They did not rescue any of the firemen to my knowledge—I did not see them—in fact there was no call to do any such rescuing.

Q. What difficulty, if any, was there in stepping off from the Columbia to the wharf? A. I did not have any difficulty.

Q. Did you see any difficulty for anybody else? A. No, sir.

Q. Do you know anything about putting out a piece of stringer under the wharf at the end? A. Yes, sir.

Q. Who did that? A. Captain Proctor.

Q. Was that the last work done in the way of putting out fire? A. No, sir, we went over the boat and gave her a good soaking after that.

Q. Now tell us how this piece of stringer was put out? A. With a Johnson pump and a bucket of water.

Q. That is a hand pump is it not? A. Yes, sir.

Q. To whom did that pump belong? A. To the fire department.

209 Q. Where did you get the bucket of water used in connection with it? A. Got that off the tug.

Q. The captain of the tug Sarah and I believe some of the others claimed that the sparks were put out by $1\frac{1}{2}$ in. hose worked by donkey pump on Sarah. A. I saw a one inch stream from the tug boat—the engineer of the tug showed Captain Proctor and me a top, telling me that if she had been well equipped he would have shown us how to put out fire, but he was not equipped and used this one line—a one inch stream.

Q. Where was the water thrown? A. When I saw it it was there at the outer bow—we used the inner bow.

Q. Did you see any water thrown from any kind of hose by the tug on this stringer you have spoken of? A. No, sir, I did not.

Q. Besides lend-ing a bucket of water, what if anything, did you see done by the tug Sarah or her crew in putting out sparks after the fire was out? A. All I saw her doing was putting water at the back end of the boat and it was a very poor stream, at least I thought so.

Q. Was it before the fire was out or afterwards? A. The fire was getting under control.

Q. My question is di- you see any water thrown from the Sarah from any kind of pipe for the purpose of putting out sparks? A. No, sir, I did not see it at all.

Q. Where was the Sarah when you first saw her? A. When I first saw her she was at the back end of the boat. When we went in that night there was no tug there of any kind. There was 210 no one working on the fire at all—that is at least when Engine Company No. 4 got there—that is why I turned in a third alarm.

Q. Did you see the tug Sarah come up? A. Yes, sir.

Q. How long was that after you had got there and got to work? A. I judge when I first saw it it must have been 45 to 50 minutes after I got there. Captain Proctor had reported before the tug got there—he came and then the tug.

Q. How many engines were at work before the tug got there? A. All of them. I know there were three responded to first alarm—my company was first to arrive and I heard Chief Wagner directing the companies that came on the third alarm.

Q. What risk or danger to the tug did you see? A. I did not see any at all.

Q. What do you know about falling timbers on the Columbia when the Sarah's crew were on her? A. I did not see any at all.

Q. Did you see any danger to the firemen or anybody in this fire? A. No, sir.

Q. The captain of the tug boat claims that he and his tug and his crew saved what was saved of the Columbia. What can you say as to that? A. I do not see how it could be done—he was not there when I got there—when Engine Company No. 4 got there, there was nothing at all at work on the fire?

211 Q. How many engines were working there before the tug began? A. I suppose all of them were there because I put in the third alarm and I heard the chief directing the companies as they came in on the third alarm how to get to work.

Cross-examination.

(By Mr. ABERCROMBIE:)

Q. The captain of the tug boat testified in this case that the crew of the Sarah were on the Columbia working on this fire for an hour before any firemen got on it, and the firemen had no hose on the

vessel when the Sarah's crew boarded her? A. It is not so—I can swear to that because I was there.

Q. You were where? A. I was at the fire when there was no tug there—we were the first company that arrived—there was no one playing on the fire at all.

Q. Mr. Garner, when you say that there was no boat there playing on the fire, you mean by that that you did not see any there? A. I can tell when there is water playing on a fire.

Q. What was the condition of the fire when you got there? A. It was burning pretty fiercely as you may know by the fact of putting in a third alarm.

Q. Do you agree with Mr. Brown in saying that it resembled the burning of Pompeii? A. All I can say was it was burning fiercely and was a big fire.

212 Q. Which way was the fire burning? A. All over the boat—the boat was a mass of flames.

Q. Is it not possible that the tug boat Sarah could have been on the stern and you not have seen it? A. I could have seen it had it been there and particularly if it had been at work. If water is being thrown on a fire you can tell.

Q. Your view was not obstructed by the fire from seeing what was on the river behind the ferry boat? A. You must remember that at a fire you work for the best position—the best location to work on the fire—if there had been any tug or anything else playing on the fire with water we could have told very easily.

Q. In what way? A. Why, any water playing in the fire.

Q. How could you tell it? A. It darkens—it is a different color—altogether entirely different.

Q. Is it not possible that as has been described by the witnesses the whole of the ferry boat was on fire—is it not possible that the water could have been put on the stern and you not know of it? A. Oh, yes! we would have known it.

Q. How could you have known it? A. When water is put on a fire you can always tell.

Q. I would agree with that if you could see it, but how are you going to tell if water is put on a fire if you cannot see it? A. I saw enough to see that the tug was not putting on any water there that night at that time. When she came up, we had been there
213 some time. When she commenced putting on water they blew.

Q. Was it possible for you to see behind the fire out on the water behind this ferry boat? A. I was working all around—trying to get the best position to fight the fire—I was going by the orders of the assistant chief.

Q. You testified that you fought your way right in? A. Yes, sir.

Q. What do you mean by that? A. From the front up to the wharf and behind.

Q. Was there any fire in the driveway or entrance way to the

ferry boat? A. There was fire all over the boat, in the slip—most all on fire you may say.

Q. Just as you come on to the ferry boat, the shed there, was that on fire? A. Yes, sir, some sheds on fire too.

Q. Well, when you got there you had to put out the shed fire first before you could get to the boat? A. We had two lines from our engine—one line we worked on the shed and the other line we worked on the boat.

Q. When you were in that position could you then see beyond the end—out in the river—beyond the stern of the Columbia? A. Saw the end of it.

Q. Could you see past the fire back into the river the stern of the ferry boat? A. Not past the end of it at that time—but I saw when this tug came up.

Q. Then it could have been possible that the tug boat was there and that you could not see her? A. She could not have been at work.

214 Q. You say you could not see past the end? A. No, I could see her when she came up.

Q. It has been testified that she had been tied up on the quarter of the Columbia and that she had been caught and backed off—is it not possible that you may have seen her when she came up the second time?

(Objection by Mr. Darlington. The only testimony as to the tug being caught was when the Columbia sank.)

A. She was not there when we went in there—there was no boat working there at all—no one there at all at the time we pulled in there—when the first engine company arrived there, there was no boat or anyone around there at all.

Q. Do you mean by that statement that you did not see any? A. If there had been any at work I could have seen them.

Q. You have testified before that you could not see beyond the ferry boat by reason of the fire; how can you reconcile your two statements? A. But I say if they had been throwing water I could have told.

Q. I did not say anything about throwing water, I asked about the presence of the tug. You can only testify about what you saw. A. I have just told you what I saw.

Q. You did not see the tug there? A. No, sir, she was not there when we went in.

Redirect.

(By Mr. DARLINGTON :)

215 Q. When you first got on the premises and looked about for the best place, had you any difficulty in seeing what you call the outer bow or stern of the Columbia? A. No, I never noticed that. I could not say—it was the inner one I went on first.

Q. When the Sarah came up, blew her whistle, and begun to play as described—was this before or after the Columbia had sunk? A. When I saw the Sarah—between 45 and 50 minutes, now I can't say before, for she was expecting to sink at that time—chief had told us to be careful—but she had not actually sunk—she was going.

Q. But she had not actually sunk? A. No, but she was going.

Q. And the Sarah got up in time to play on her before she sank? A. Yes sir.

W. J. GARNER.

Subscribed and sworn to before me this 10th day of October, A. D. 1904.

[Seal of Laura A. Shugrue, Notary Public, District of Columbia.]

LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

216

410 FIFTH STREET N. W., September 28th, 1904.

Met pursuant to adjournment.

Present: H. N. Abercrombie, Esq., proctor for the libelant, and J. J. Darlington, Esq., proctor for the libellee.

JOHN CARRINGTON, a witness of lawful age, produced on behalf of the libellee, having been first duly sworn, testified as follows:

JOHN CARRINGTON.

Direct examination.

(By Mr. DARLINGTON :)

Q. What is your full name? A. John Carrington.

Q. What is your present occupation? A. Captain fire department Engine Company No. 2.

Q. What was your position at the time of the burning of the ferry boat Columbia on the 13th day of last May? A. Captain of No. 2 Engine Company.

Q. Were you present at this fire? A. Yes, sir.

Q. Where is your engine house located? A. D street between 14th and 15th streets, N. W.

Q. At what time did you leave your engine house? A. At 9-34 p. m.

Q. At what time did you arrive at the scene of the fire? A. In about 8 minutes.

Q. When you got there what, if anything, did you see
217 being done toward fighting the fire? A. I saw three lines of hose from the fire department engines at work.

Q. What position did your company take? A. We went on the boat.

Q. What, if anything, do you know about cutting holes in the deck and playing water down into the hull? Q. I saw the men cutting the holes before we had been ordered off the boat at that time—that is my company.

Q. Did you take your hose on to the boat when you got there? A. Yes, sir.

Q. What difficulty did you then have in laying out your lines and taking them on the boat? A. None at all—just went from the wharf on to the boat.

Q. Did you see the Sarah there? A. No, sir.

Q. You do not remember seeing her at all? A. No, sir.

Q. Do you remember seeing any of her men who boarded the vessel? A. No, sir.

Q. What, if anything, do you know about the falling of a shed on the wharf while the fire was in progress? A. Our stream of water knocked the shed down—it was almost burned down and we had orders to back off the boat and play on the shed—and that knocked the shed down.

Q. What was the condition of the fire at the time you were ordered off her? A. It was all down—all the top of the boat had fallen in and all around the deck was on fire.
218

Q. To what extent was the fire on the boat under control at that time? A. It was completely under control.

Q. What interruption to the work of your company, or of any company, in so far as you saw, did the falling of the shed have? A. None.

Q. How long a time did it stop you or the other companies, so far as you saw, from playing the hose? A. Not at all.

Cross-examination.

(By Mr. ABERCROMBIE :)

Q. Captain, what is the distance of your engine house from the scene of the fire? A. I suppose about $1\frac{1}{2}$ miles to $1\frac{1}{2}$ miles—some-where along there, sir.

Q. How long had you been on the boat when you were ordered off? A. Not over 15 minutes.

Q. Why were you ordered off? A. We were ordered off to put out these sheds that were burning around the boat.

Q. And in what condition was the fire on the Columbia? A. It was pretty well under control—all the top of the boat had fallen in.

Q. What was still burning on her? A. Just the stuff that had fallen down—and there was some fire in the hold.

219 Q. Whom did you leave on the boat when you were ordered off? A. I could not say—there were three or four companies on the boat.

Q. Were they all ordered off? A. No, sir.

Q. How many men did you leave on the boat when you were ordered off? A. I could not say how many were left on the boat.

Q. How many men were on the Columbia fighting the fire? A. I do not know.

Q. Did you see the Newport News that night? A. Yes, sir.

Q. Where was she? A. She was lying at the dock when we pulled in.

Q. Did you see her pulled out? A. I saw her out in the stream.

Q. What were you doing then? A. We were playing a stream of water on the boat.

Q. Was it prior to or subsequent to the time when you were ordered off the Columbia, that you saw the Newport News? A. We had not been ordered off the boat—we were still working on the boat.

Q. At that time did you see the Sarah? A. No, sir, I did not see the Sarah.

Q. You did not see her at all at any time during the fire? A. No, sir.

Q. What was it that you saw falling? A. It looked like a 220 shed where they kept oil and coal and such stuff.

Q. On which side of the entrance to the Columbia was this shed? A. It was the eastern side of the Columbia—right about the front of the boat—the shed was located at about the front part of the boat—to the east.

Q. Do you know Mr. Carrington whether or not any of the fire department men were injured that night by the falling of the shed? A. I was told that Mr. Offutt was injured by the falling of the shed.

Q. Who is Mr. Offutt? A. He is the man that goes with Assistant Chief Wagner.

Q. Any one else injured? A. Not that I know of.

Q. Did you see him? A. No, sir, I did not see him.

Q. You did not see the shed fall? A. I saw the shed fall but did not see him in the shed—I had orders to put the water on the shed and it fell.

Q. Was there a line of hose through that shed—or rather under the shed? A. I did not notice—we were 50 feet from the shed.

Q. What was the character of the fire when you arrived there, Mr. Carrington? A. The boat seemed to be on fire all over.

Q. Did you respond to the first or the third alarm? A. I responded to a telephone call about a minute or two before the third alarm was pulled—about 9-34.

Q. You responded to a telephonic call for your engine? A. Yes, sir.

221 Q. You had left the engine house before the third alarm came? A. Yes, sir.

JOHN CARRINGTON,

Subscribed and sworn to before me this 10th day of October, A. D. 1904.

[Seal of Laura A. Shugrue, Notary Public, District of Columbia.]

LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

222

JOHN R. SUTTON.

JOHN R. SUTTON, a witness of lawful age, produced on behalf of the libellee, having first been duly sworn, testified as follows:

Direct examination.

(By Mr. DARLINGTON:)

Q. Give your full name? A. John R. Sutton.

Q. What is your official position in the District of Columbia government? A. Harbormaster of the District of Columbia.

Q. Were you present at the burning of the steamer Columbia in May of last year? A. I was in a hall right opposite to my office—a lady called me and said there is a fire across the way there—I ran down the street, looked over and saw a blaze in the Columbia—ran over and turned in an alarm—I ran immediately to get water on my place which is only a short distance from the wharf, and saw that everything was all right there—I looked out every minute to see when engines would come there—I saw No. 4 come in—I did not see any more for a little while afterwards—I was busy getting hose and water and, everything in readiness to save my own property—that is the property of the District.

Q. Did you notice what position the men of the No. 4 company took when they got down? A. I ran up there and holloaed to go right through the wharf entrance—they drove hose carriage down through the wharf and I came down to my own place to see if everything was all right.

223 Q. Did you see the tug boat Sarah that night? A. I did sir.

Q. In respect to the time that you saw engine No. 4 commence work, when did you see the Sarah? A. I can't say—it may have been 25 or 30 minutes before I saw her.

Q. What observation did you make of any work she did? A. None whatever. Someone told me she was there and I simply looked over and saw that she was there.

Q. What do you know, if anything, of the falling of the burning shed? A. Someone came down and asked me to go up and have the firemen throw water on Bank's pile-driver.

Q. How near was that to the Columbia? A. I guess about 100 feet. I went up to the only shed that was there and just as I got there, I said "Throw" and down came the shed and I holloed to the men to come help get the men out from under the shed—to the best

of my knowledge there were four men under the shed besides myself. I had a little of it on me—the men came and pulled the timbers off and got the men out all right.

Q. To what extent, if at all, did the falling of that shed stop the fire department? A. Not over three minutes.

Q. What did you do? A. Pulled the stuff off and got men out.

Q. How many men were engaged in that business? A. Three or four men.

Q. What interruption, if any, was this to the other engines? A. None whatever.

224 Q. Mr. Sutton, will you please look at the diagram which I now show you and ask you whether it presents a correct view of the slip in which the ferry boat Columbia was, belonging to the Washington Steamboat Company, Limited, and of the Marshall Hall Steamboat Company property, and of the Norfolk and Washington Steamboat Company property? A. Yes, sir.

Q. Now look at the ferry boat slip (pointing to where the word "Ferry slip" is written on the diagram), does that present an accurate representation of the ferry boat slip at the time of the fire? A. It does.

Q. Do or do not the yellow portions, marked (pointing to portions of diagram marked in yellow) that color, represent the position of the sheds? A. With this exception (indicating the large yellow portion)—that represents two or three sheds.

Q. Now take the parts immediately adjacent to the slip, marked in white (pointing to spots marked "solid wharf") what do they represent? A. That (pointing to the eastern "solid wharf") represents a wharf—it is all piles under there.

Q. Are or are not those piles floored over? A. They are.

Q. Take the portion marked "solid wharf" on the western part of the slip (pointing to the part indicated) what is that? A. That is so that steamboats can come up to it—regular wharf.

Q. Is that also floored over so that wagons can pass over it?

225 A. A wagon can go over it—it is a little too far out—persons would hardly trust themselves on it for fear they may back off—the wharf is strong enough.

Q. What obstacle or difficulty as to either of these places marked "solid wharf" was there to having truck hose of the fire department go out on that night? A. None whatever. They came right down here (indicating the point marked "entrance") and they came right here (indicating yellow shaded portions of the diagram).

Q. Please state whether under these yellow portions there is a solid flooring along which wagons can pass? A. Some portions along here have a solid foundation—wagons can pass over—I have once.

Q. Do you notice the part of the yellow shading marked "waiting room"? Do you recognize it as the waiting room? A. That is right.

Q. Do you also observe upon this diagram the portions marked "dock" and do they represent the docks? A. They do.

Mr. Darlington offers the diagram in evidence marked "Defendant's Exhibit No. 3."

Q. When you first noticed the tug Sarah where was she in respect to the ferry boat? A. She was at the stern of the ferry boat, sir.

Q. How close to the stern? A. It was a little dark when I looked over and saw her—very close to her.

226 Cross-examination.

(By Mr. ABERCROMBIE:)

Q. Where were you when the fire started? A. Mariners' Temple, just opposite.

Q. Where is your harbor? A. My wharf is about here (indicating "S") and Mariners' Temple is about here (indicating point marked "M").

Q. What did you do when you saw the fire? A. I turned in an alarm.

Q. How much of a fire was there when you turned in the alarm? A. I saw a bright blaze—cannot say how much of a fire.

Q. Where did you turn the alarm in from? A. Right from my office.

Q. Where did you go? A. I holloaed to some friends to get hose in my place—I ran out to direct the hose carriage how to come down to the fire—told them to come right through—

Q. What did you do then? A. I returned to my own place.

Q. How long did you remain there? A. I remained there for a few minutes, and came back to the fire for the balance of the night.

Q. Were you in such a position that you could see all that was done toward fighting the fire? A. I was looking after my own interest and of course did not pay any attention to any other.

Q. You were more concerned about taking care of the District of Columbia's property than you were with the fire? A. Yes, sir.

227 Q. When did you notice the tug boat Sarah? A. The fire was pretty well down when I noticed her—I judge I could have seen her plainly, with the light.

Q. You did not see her come there? A. I did not.

Q. And when you saw her you could not tell how long she had been there? A. I could not.

Q. The wharf represented on this map as "solid wharf" making up the slip for the ferry boat—what is that on the sides of the ferry slip to catch the ferry boat as she comes into the slip? A. A lot of piles driven all through there—very close together.

Q. How high do they extend? A. I should judge 6 or 8 feet from the top of the wharf up.

Q. How much of the shedding that is indicated in yellow on this

map was on fire? A. I should judge about 30 feet through here (indicating the south portion of the larger yellow plat).

Q. As I understand the hull was not on fire? A. If it was it was put out so that it did not burn much.

Q. Then the fire did not extend to the waiting room? A. No, sir.

Q. So the shedding just adjoining the entrance to the slip burned? A. No, sir. Right in this corner there is a little open space (indicating the angle between the entrance shed and the large 228 shed), about 10 or 12 feet and the shed ran back—it was a coal shed.

Q. Well this shed directly opposite the entrance to the ferry boat property, did that burn? A. No, sir. That is I mean it might have burned but it did not burn down for it is standing there yet.

Q. Which shed was it that fell? A. This portion (indicating the southern end of the large shed on the map shaded yellow).

Q. What is the size of those portions of the wharf marked "solid wharf" adjoining the slip? A. I should judge they were 20 feet each.

(Mr. DARLINGTON: As counsel can observe, the plat is drawn approximately to a scale, 17 feet to an inch.)

Q. Can you give us an idea Mr. Sutton how long it was between the arrival of No. 4 engine and the next engine that came. A. I ought to be able to give you quite an accurate account of it. Just a few days after that in trying to get a fire boat here I said to a newspaper man—

(Mr. DARLINGTON: I must object to a conversation between witness and some one else. I have no objection to the Captain telling, if he knows, when the second engine came there.)

A. I do not know—I could not tell you.

Q. You can tell us what you did as the result of the interview but you cannot tell us what the interview was.

(Mr. DARLINGTON: I submit that the Captain cannot tell us as competent evidence—as a matter of evidence in this case—what he did several days afterwards in consequence of an interview 229 that he had with a newspaper correspondent being *res inter alios acta*.)

Q. Well, can you give us an idea Mr. Sutton what was the time from the arrival of No. 4 engine to the arrival of the next engine? A. I could not tell.

Q. You stated on examination in chief that after the arrival of No. 4 you saw no more for some little while, and I would like to know, if you can tell me, about how long an interval there was between the arrival of No. 4 and the time you looked out again. A. The second time I looked out, they were all at work—of course, there were some I could not see—I don't remember of seeing a truck there.

Q. During the progress of the fire were you out on the Columbia at all? A. No, sir.

Q. What was the nearest you got to the Columbia during the progress of the fire. A. I guess about 300 feet—I looked over there from my place—I guess it was that much.

Q. That was the nearest you were to the fire? A. Yes, sir.

Q. Did you see the tug Carter—James O. Carter? A. If I did, I do not know—there were tugs out there but I could not recognize them.

Q. You could not see what they were doing? A. There was a tug which had the Newport News out there.

Q. Did you see the steamer Macalester? A. I did—out in the stream.

Q. Did you see the tug pull her out? A. I did not.

JOHN R. SUTTON.

Subscribed and sworn to before me this 10th day of October, A. D. 1904.

[Seal of Laura A. Shugrue, Notary Public, District of Columbia.]

LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

230

FRANK J. WAGNER.

FRANK J. WAGNER, a witness of lawful age, produced on behalf of the libelee, having first been duly sworn, testified as follows:

Direct examination.

(By Mr. DARLINGTON :)

Q. Please state your full name? A. Frank J. Wagner.

Q. Are you connected with the fire department of the District of Columbia? A. Yes, sir.

Q. What position did you hold in that service on May of last year? A. Assistant chief.

Q. Were you present at the burning of the ferry boat Columbia? A. Yes, sir.

Q. Please tell us Captain, how you came to go to that fire and when you arrived? A. I responded on the first alarm and arrived at about 9.31 I think—the alarm came in at 9.25 I think that was the time—I should judge that it takes me about 6 or 7 minutes to make that run.

Q. How many fire engines and companies were called out to subdue that fire? A. The first alarm brought three and a truck, and the third alarm brought four additional companies and a truck.

Q. From your knowledge of the different companies and their routes, can you tell us which of them—what fire department vehicle passed anywhere near Pennsylvania avenue and Eleventh street northwest? A. On the first alarm nothing

passed but my buggy at that point—the next would be on the third alarm or the telephone call as Mr. Carrington stated would be the next—on the first alarm my buggy would be the only piece to pass.

Q. Is your buggy provided with a fire gong which is rung as it proceeds to fires? A. Yes, sir.

Q. What electric street car line passes near Eleventh street and Pennsylvania avenue, northwest? A. The Washington and Georgetown.

Q. What street car line passes there that also goes near the river front? A. None direct—you have to transfer at Seventh street.

Q. How about the Anacostia line? A. That would take you away from there—would go down Ninth street by way of $4\frac{1}{2}$ street—take you right away from the fire.

Q. May not one board an electric car in the vicinity of Eleventh street and the avenue? A. At 11th and E streets they could.

Q. At 11th and E streets they could? A. Yes, sir.

Q. How far from Pennsylvania avenue? A. One block north of Pennsylvania avenue.

Q. And where would that line take you? A. Toward 14th street—south on 14th street and then B street towards the fire—south.

Q. And would or would not that line pass near the 9th Street 232 wharf? A. 9th Street wharf? Yes, sir.

Q. How near to them? A. About a stone throw.

Q. Is that the only electric street car line in Washington which, taking a passenger on board near 11th street and Pennsylvania avenue, would land him near the 9th Street wharves? A. Yes, sir.

Q. Now, Captain, when you arrived at the scene of the fire what did you find? A. I found No. 4 Company there and they had their line of hose laid out—they had not had water yet but had laid out. I met Mr. Bieber, the fire marshal, standing there at the entrance—says I “What has been done”——

(Mr. Abercrombie objects to testimony of conversation with Mr. Bieber.)

A. No. 4 had laid out and went right down with their line, pipe, men—the wharf was on fire as well as the boat—and says I “Put this out as you go in—fight your way in”—I was right with them until we got to the end of the boat—the in end—I got them to play on that and went back and located the other two companies—they were there by that time.

Q. Where did you locate them? A. I had one company on the east of the boat, and one right in the center—that is the slip as you go in.

Q. Were these three companies on the boat? A. No, sir, none could go on the boat at that time—and the third company I had on the west.

Q. You had three companies and four streams? A. Yes, sir.

233 Q. Kindly look at the diagram marked "Defendant's Exhibit No. 3;" will you please indicate on this map where you located these companies? A. I had one here (indicating the point marked No. 4), and I had another here (indicating the point marked No. 8), and another here (indicating a point marked No. 14).

Q. Now which one of the engines were working two hose? A. No. 4 engine.

Q. Where were these two hose placed? A. Side by side.

Q. How long was it after you arrived before the other engines came? A. In answer to the third alarm?

Q. Yes. A. I cannot tell except from the time it would take them to come. It would take some of them from where they are located probably about 10 minutes.

Q. Are you able to say where they were located? A. No, I could not. These I have indicated are the principal engines I had with me—I put the bulk of the fire out with these engines—I had sent my messenger back to take in the incoming companies and have them look out for the other properties in case there was any danger.

Q. How soon after you got there was it before you had some of your men on the boat? A. I should judge it was—well, in about 20 minutes I had that fire practically under control.

Q. That does not answer the question—how long had you been playing before you got your men on the boat? A. I got my men on to the boat in about 20 minutes.

Q. Did you see the tug boat Sarah? A. Yes, sir.

234 Q. Did you see her when she arrived? A. No, sir.

Q. Where was she when you first saw her? A. She was at the south end of this ferry.

Q. How near to the Columbia? A. That I cannot say—she was very close—we were on board the boat—I had the truck company cutting holes in the deck so as to use cellar nozzles down in the holes and had got one of the nozzles in the hole when a stream of water struck me—I said "There is a stream of water back there"—one man says There is a tug boat back there.

Q. Is that the first evidence you had of the tug boat? A. That is the first thing I knew of the tug boat being there.

Q. How much water do these cellar pipes discharge? A. They have a revolving nozzle—there are 9 outlets—I think they are $\frac{1}{2}$ inch, each of them—they can throw water anywhere between 12 and 15 feet in circumference—up and down and sideways.

Q. How many of those were used on board the Columbia? A. I had two of them down the hold.

Q. Had you any other water playing down the hold except these cellar pipes? A. Not at that time—but we had the straight streams down there but of course could do no good with them.

Q. Do you mean to say that straight streams are of no effect in a hold? A. Little help because they go to one spot only—you cannot get down and raise the nozzle and make them play around—the cellar pipe works automatically.

Q. What can you tell us as to the truth and accuracy of the
claim that the tug boat supplied the water that sank the Co-
235 lumbia. A. Well it would be almost laughable if I were to
tell you what a one inch stream could do.

Q. Why do you say a one inch stream? A. Because that is a
very small one.

Q. What was the size of the stream that struck you from the tug
boat? A. I should judge that was what it was—I saw nothing but
what struck me.

Q. It is claimed by the testimony that the tug threw 3 or $3\frac{1}{2}$ inch
stream? A. I did not see it.

Q. What is the size of the stream thrown by the fire department
engines of standard size? A. From $1\frac{1}{2}$ to a $1\frac{1}{2}$.

Q. Why then, Captain, did you say that the one inch stream
would not be effective? A. You take a raging fire and put a one
inch stream in there and you would not see it—would have no
effect.

Q. Is not that the kind the fire department throw? A. Oh, yes,
but when you go into a cellar we have got revolving nozzles, we
could do nothing there with a straight stream.

Q. One of the fire department witnesses here has stated that
streams thrown by the engines are from 1 to $1\frac{1}{2}$ inches and another
witness said they were $2\frac{1}{2}$ inches; how do you reconcile that? Q.
There is no $2\frac{1}{2}$ inch stream thrown—I think either you or the wit-
ness is mistaken—we use a $2\frac{1}{2}$ inch hose.

Q. What regulates the size of the stream, the hose or the
236 nozzle? A. The nozzle.

Q. Do you know anything of water being thrown through
the port holes of the vessel Columbia by the aid of a small tug or
boat? A. No, sir.

Q. Did you see the collapse of this burning shed spoken of? A.
Yes, sir.

Q. To what extent did that interrupt or cause a cessation of the
work of the men? A. None whatever—it was too light to interfere
with anything.

Q. Are you able to state whether the tug Sarah was at the scene
of the fire when you arrived? A. I did not see her if she was—
though I think if she had been lying where she was when I did see
her I could have seen her—everything was very bright—the heavens
were illuminated.

Q. It is claimed by the captain of the tug boat Sarah that the fire
department men cut holes in the deck to enable the crew of the
Sarah to play their hose down into the hold? A. I will tell you
what was done—after we had the hole in the deck, they come aboard
with their nozzle and stuck it down alongside of ours.

Q. What kind of hose did you have down? A. $2\frac{1}{2}$ inch hose with
revolving nozzle on it.

Q. What kind of stream did that play? A. A 1 inch stream—in
connection with a revolving stream.

Q. Did they have a revolving nozzle? A. No, sir.

237 Q. It is claimed that the crew of the tug boat Sarah encountered danger from falling timbers and from things on the vessel? A. I saw no danger on the vessel when anyone could live on it.

Q. It is also claimed that the tug Sarah rescued a number of the firemen? A. We had no one to rescue—everything was in good shape with us.

Q. How did the firemen leave the Columbia when she sank? A. Simply walked to the end and stepped up on the wharf. I think I was one of the last coming off—I had no trouble getting off—I was in water up to here (indicating the ankle) I think I was one of the last to come off.

Q. What precaution, if any, was taken to extinguish sparks etc. before the fire department left? A. I went to the harbormaster and got the loan of a bucket and two of No. 4 men and some of Harbormaster Sutton's men to row these men out under the wharves with a Johnson pump and all around the edge of the boat—that is a way we have of extinguishing sparks—we never leave anything without using a Johnson pump.

Q. It is claimed in this case that the fire department left the scene of the fire while there were still sparks, and that the boat and wharves were protected after the departure of the fire department by the tug Sarah? A. That is not so.

Q. To what extent within your observation did the tug Sarah and her crew contribute to the saving of so much of the Columbia 238 as was saved? A. Very little.

Q. It is further claimed on behalf of the Sarah in this case that the crew of the Sarah were on the Columbia fighting the fire for a considerable time, if not half an hour, before any of the firemen got on the Columbia? A. That is not so—that is the worst I have heard yet.

Q. You were yourself on the Columbia? A. Yes, sir.

Q. Can you inform us who were on besides the firemen? A. I had three companies of the fire department on at the same time—I saw no one else except the firemen on board.

Q. How many men did you have altogether on the boat? A. I could not answer—some 10, 15, 20—cannot count faces.

Cross-examination.

(By Mr. ABERCROMBIE :)

Q. When you arrived at the scene of the fire, Chief, No. 4 was there? A. Yes, sir, they had the hose laid out but were not playing water—not yet.

Q. How soon after you arrived did they play water? A. About a minute.

Q. As I understand from your testimony in chief, the boat was on fire and the wharf was on fire and that when you arrived you fought your way into the boat? A. Yes, sir.

Q. You further say that 20 minutes had elapsed before you had fought your way through to the boat? A. Before we got on
239 the boat.

Q. Is that correct? A. I think so.

Q. You also said that no one could live on the boat? A. That was right.

Q. Was that at the time you had fought your way through to it? A. That was when I first got there.

Q. I do not understand what you mean when you first got there. Do you mean when you first arrived at the scene of the fire or when you first arrived at the boat after fighting your way through the sheds? A. We stayed on that fire for about 20 minutes from the outside—we then had it in such condition that we could go aboard her—the pilot house and all woodwork had fallen by that time—nothing but a pile of debris.

Q. I will ask this question: If you were told that the tug boat had tied up at the stern of the Columbia and had used a $3\frac{1}{2}$ stream of water on that fire whether she could have been of any service in putting out that fire? A. Yes, sir, if she had a $3\frac{1}{2}$ inch stream she could have helped—she could not have put it out because the fire was going away from her.

Q. Would not the fact of the fire going away from her have been an aid instead of a hindrance? A. To be sure if she had a $3\frac{1}{2}$ inch stream.

Q. Now as I understand you after you had fought your way to the steamer you had three companies, one at the entrance to the steamer and one on either side; is that correct? A. Yes, sir, that is correct.

240 Q. How long a time had then elapsed before you left and went out to the front to see to the other companies, to see to the other engines? A. I did not go to the front—I sent a man.

Q. Did you see, Chief, anything of the fighting of the fire from the tug boat Carter? A. No, I did not see that—I was told about it.

Q. Do you remember the testimony of Mr. Lanahan at the last sitting? A. Yes, sir, I heard of it that night, but I did not see it.

Q. Therefore you are not able to say anything about it? A. No, sir, I was told about it that night—I was on board when the stream struck us from the west and was told it was one of our companies—but I cannot tell which one it was that was on board the tug boat.

Q. Chief, are you familiar with pumps as to their sizes, capacities, etc.? A. No, sir, I would not like to say that.

Q. I will read the testimony of Captain Cannon, page 14: "They have a driveway on each side of the ferry boat. I was fighting that fire over head until the inside work fell and we then played the water around the engine and boiler room where the heat was the greatest. I did that to save the boiler and engine the best I could and then there was an iron brace and the wood had burned from around it and that fell down across our hose and we had to get our hose out and put it above

the brace that fell down—hog brace I guess they call that. I then went up on the port side of the ferry boat and then the firemen got in there and cut a hole down through the deck where the wagons drive through, where there was some fire down the lower engine room and put that out. We got out of there and played where the fire was close to the coal bunkers; the flames began to rush out of there and in a minute we stuck the hose down through and put that all out; then the fire was between the engine room and boiler. I saw the blaze flaming up through there and we put the hose on the deck and had to kneel on it to hold it and after we got the nozzle down on deck I got on it with my knees and worked it around between the decks and between the beams and the water was running down in the hold until she took water in the ash pit." Did you see any of that? A. No, sir.

Q. Would you say whether or not it took place or did not take place? A. I did not see that take place—they were on aboard I have no doubt, but when they come to say that they got their hands down with their nozzle below deck where the fire was raging—they could not have done so.

Q. I will read the 35th question and answer of Captain Cannon's testimony on page 16: "35 Q. How long do you think you had been on the ferry boat before you noticed any of the fire department men? A. I should say we were there all of twenty minutes or half an hour before I saw any of the firemen aboard of the steamboat." A. He is very much mistaken—it is not so.

Q. I will ask you this: You say that it took you 20 minutes after you arrived at the scene of the fire all of 20 minutes before you got on the boat; why was it not possible for the Sarah to have been there all that time fighting the fire from the rear? A. I did not see her—had she been there when I got there I would have seen her for everything was very bright—the skies very bright and illuminated—we could see from Pennsylvania avenue.

Q. Is it not a fact that there is an obstruction from the entrance to the ferry boat to where the stern of the steamer is so that you cannot see? A. Not from the entrance.

Q. Is it possible for you to stand in the entrance of the ferry boat and see something behind the steamer? A. Yes, sir. This (indicating space over the sheds) is not all closed up—there are openings through here.

Q. Mr. Sutton has testified that on the sides of the slip are piles that extend up above the side of the wharf 6 or 8 feet; would not that be sufficient to hide a tug boat? A. I do not think so—not when you come down about here (indicating near to the entrance of the slip).

Q. Captain, Mr. Sutton has also said that at the place indicated on the map where No. 8 engine is supposed to have stood was a coal shed—how could you see across that?

Mr. DARLINGTON: I object on the ground that there is no testimony that a coal shed extended where No. 8 engine was located, the testimony being that it was the south 30 feet approximately, of the large shed that was used as a coal shed.

A. The coal shed was in the rear of me when this shed fell—I did not see any coal shed where No. 8 company fought the fire. But there was a coal shed in the rear.

Q. Will you indicate on this map the location of the coal shed?

A. This is the part where he has written "coal shed" that 243 fell (indicating the point where the counsel has written the word—"coal shed").

Q. How far back or toward the entrance did that coal shed extend? A. It went all the way back to the entrance—the shed did—I cannot say how much of it was used as a coal shed—we do not know such things as that.

Q. Was it possible to drive anywhere over this wharf marked "solid wharf"—the large yellow colored parts? A. We drove our hose carriage down to about this point (indicating point marked "coal shed"). No. 4 drove her hose carriage down to that point, taking off her hose, and went out the same way again.

Q. What is there immediately behind where No. 8 is marked on the map? A. There is a shed of some kind—a little low structure—I do not know what that was—I could not tell.

Q. Now, will you or will you not say that it was possible or impossible from the entrance—anywhere in the entrance—to see beyond the ferry boat Columbia as she lay at her slip that night? A. You mean west of the ferry boat?

Q. Yes. A. When I was coming in the entrance I could not see anything west of the ferry boat but I could see south of it—west I could not because the blaze was too bright.

Q. Could you see the part of the wharf marked "solid wharf" forming the eastern slip of the ferry boat? A. Yes, I was on it.

Q. At what time or progress of the fire were you on it? 244 A. I was on the wharf while fighting the fire from the shore.

Q. That was after you fought your way to the entrance to the steamer? A. No, sir. That was when we were all fighting on the shore—nobody on the boat then—I was there every few minutes.

Q. Did you see the Sarah then? A. No, sir.

Q. Did you look to see? A. No, sir.

Q. You were not paying much attention to what was going on on the water? A. No, sir, not at that time—I had lots to do.

Q. I will ask you, Chief, if it was not possible that the Sarah may have been there and you not see her? A. Yes, indeed, certainly.

Redirect examination.

(By Mr. DARLINGTON :)

Q. Chief, where did you say you were when counsel asked you about being on solid wharf? A. I was on the wharf (indicating).

Q. Do you mean you were on the east wharf? A. Yes, sir.

Q. The fire was very fierce at that time? A. Yes, sir.

245 Q. What can you tell us of the possibility of there having been a tug at the end of that slip throwing a 3 inch stream of water on that fire and you not have seen her? A. I think I would have seen her if there had been a three-inch stream on the fire.

Q. What can you say of the possibility of a tug being at the end of that slip when you were there, and throwing a 3 inch stream of water, and you not seeing it? A. It could not be possible that a 3 inch stream could be played on that fire and I not see it.

Q. What effect on the fire, what possible effect on the fire at any point, would the playing of a 3 inch stream have? A. It would darken it very quickly.

Q. Did any such effect occur? A. I did not see it.

Q. Could it have occurred without your seeing it at this fire? A. No, sir.

Q. Suppose a 3 inch stream had been played on that fire, on that boat, at any time before the woodwork fell, could you have failed to see it? A. No, sir, I would have seen it.

Q. If Captain Cannon and his crew had done the things which are stated in the portions of his testimony which counsel has read to you, could you have failed to see them? A. No, sir.

Q. Did you see them? A. No, sir.

Q. You have said that there was some kind of a low shed near where engine No. 8 stood; was that shed of such a character as to prevent engines or fire trucks from getting in and around the wharf at that point? A. No, sir, a wagon could go anywhere around 246 that shed. I think the shed was open—it was a hooded shed—just posts with a roof over it.

Q. You have been asked about piles extending above the floor of the wharves which line this slip; can you tell us how far apart these piles were? A. I paid no attention—I know there were piles such as are used for fenders when boats come in.

Q. Do you recall whether those piles were so close together that you could not see between them? A. I do not.

Q. How large were these holes you cut in deck to let nozzles through? A. Six or eight inches—just as the axe happened to break—large enough to let the nozzle down.

Q. Do you mean six or eight inches square, approximately? A. Yes, sir.

Recross-examination.

(By Mr. ABERCROMBIE :)

Q. Did you have any conversation that night with any one on board the Sarah? A. Yes, sir.

Q. Did you have any conversation with Captain Cannon? A. We were standing there, I, Captain Proctor and one or two others, and Proctor and Cannon were talking about the pumps—I took up a nozzle and looked at it and asked "What size do you call it"—and he replied One inch. I stopped there, and he and Proctor continued the fire talk—some one, I cannot tell who, made a remark that the Sarah did pretty good work after all and turned to me, and I said "She did very well."

247 Q. Captain Cannon testified that he was introduced to you, and Mr. Sutton and Mr. Padgett and you I think were together, and that you congratulated him on the services that were rendered. A. That was my congratulation—I said "She had done very well."

Q. That was after it was all over and the Sarah had tied up beside the slip or the dock? A. Yes, sir. After that, we got a boat, and Captain Proctor and his men went around underneath and put out sparks.

Q. When that shed fell were not some men injured? A. None of my men were injured to amount to anything—one of my men got his nose skinned—that is all I think that got injured.

Q. Who is Assistant Foreman Sullivan? A. He was of truck C.

Q. Who was John Trodden? A. Of truck C.

Q. Who was Offutt? A. Offutt was the man in my buggy who got his nose skinned.

Q. Were all three injured? A. I do not know. I know of Offutt being injured because he was in my buggy—if he had been anywhere else I would not have known about it.

Re-re-direct examination.

(By Mr. DARLINGTON :)

Q. Chief, why did you say what you did about the Sarah doing well? A. Well the chances are—we have been wanting a fire boat a long while, and every time we could put in a word in favor 248 of a fire boat that would help us we would do it—Harbor Master Sutton said, "You don't want to forget this chance—you have a chance for for a fire boat." It is natural anyway when you are talking with a man to say "You did very well."

FRANK J. WAGNER.

Subscribed and sworn to before me this 10th day of October, A. D. 1904.

[Seal of Laura A. Shugrue, Notary Public, District of Columbia.]

LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

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ALBERT S. HAIGHT.

ALBERT S. HAIGHT, a witness of lawful age, produced on behalf of the libellee, having first been duly sworn, testified as follows:

Direct examination.

(By Mr. DARLINGTON :)

Q. Give us your full name please? A. Albert S. Haight.

Q. What position do you hold? A. I am a private and the chief of the fire department's messenger.

Q. Were you at the fire when the Columbia burned? A. Yes, sir.

Q. With whom? A. Chief Engineer Belt.

Q. Do you know about when you reached it? A. I do not know exactly—only from the fire department record. We left quarters on the third alarm.

Q. How long did it take you to drive down? A. About 6 minutes I should judge.

Q. When you got there what did you find was being done toward fighting the fire? A. Why all the companies that were on the first alarm were in service, and the other companies were going into service.

Q. Now what part of the ground did you visit that night? A. Most all of it—that was within reasonable distance.

Q. How close did you come to the fire? A. At any time do you mean?

A. Yes sir. A. I was on the boat.

250 Q. Please look at this diagram, at the two spaces marked "solid wharf," bordering the ferry slip, and state whether you were on those spaces? A. Yes, sir, I was on both of them, and all around under the shed.

Q. How near the southern ends of the two solid wharves were you? A. I could not exactly say—I should judge I was at the ends.

Q. How shortly after you arrived were you on these solid ends? A. I cannot remember.

Q. At the time you were on these ends did you see the tug boat Sarah? A. Yes, sir, I did not say I was on the ends positively.

A. When you were on the solid wharves did you see the tug boat Sarah? A. I did.

Q. How long had you been at the fire before you saw the Sarah? A. I should judge 25 or 30 minutes.

Q. Did you see her coming up? A. No, sir.

Q. Was she there when you arrived? A. I did not see her.

Q. If she had been there and throwing a 3-inch stream of water would you have seen her? A. I would have seen the stream if I did not see her.

Q. Did you see such a stream at that time? A. No, sir.

251 Cross-examination.

(By Mr. ABERCROMBIE:)

Q. Do you recollect the time of the third alarm? A. Do I remember the time of the third alarm?

Q. Yes. A. I think the record time is 9-35—I would not say positively. The first was 9-25 and I think the third was at 9-35.

Q. And what time would it be when you arrived at the fire? A. 9-35—6 minutes after that would be 9-41.

Q. Where did you go when you arrived at the fire? A. I took the wagon, the buggy rather, a reasonable distance away, put the weight on the horse, and got my coat etc. and reported to the chief engineer.

Q. Where did you find the chief? A. At the connection of the boat and the wharves.

Q. (Pointing.) Where No. 4 is indicated on Defendant's Exhibit No. 3? A. Yes, sir.

Q. Where was your horse tied? A. I could not say exactly—directly on the opposite side of the street—no distance away.

Q. How long do you think it took you after you arrived and before you reported to the chief? A. About one minute or a minute and a half.

Q. What was the condition of the fire at that time? A. The boat was on fire very good—that is from one end to the other—very nearly.

Q. Were the men on the Columbia when you arrived there?

A. No, sir, I do not think they were.

252 Q. Not on? A. I could not say exactly—I do not remember seeing them on the Columbia.

Q. Where were you when you first saw the Sarah? A. I was about where No. 4 engine was. (Indicating No. 4 engine.)

Q. And where did you see the Sarah? A. The Columbia was here (indicating the ferry slip) and the Sarah I judge was about in here (indicating the end of the slip).

Q. On which side of the ferry boat was the Sarah? A. On the east side—I beg pardon on the west side.

Q. On the west side from here? A. Yes.

Q. Was she against the wharf or against the ferry boat? A. She was not against either.

Q. What was her position with respect to the wharf or the ferry boat? A. What do you mean? She was laying in the same way the boat was.

Q. Was she closer to the ferry boat or was she closer to the wharf? A. That I could not say.

Q. Then you are not able to say precisely where the Sarah was? A. Only just where I said. I just looked at her and that was all.

Q. Did you see her again after that? A. Probably I did.

Q. When you saw her what was she doing? A. She had a stream of water on the fire.

253 Q. What was the size of the stream? A. I could not tell you—it looked very small—but I could not say—I did not go up and examine it.

Q. How did it compare with the streams of water from the engines? A. I could not answer that—that is not exactly.

Q. Well, did it look to be about the same size or larger? A. It looked smaller.

Q. What is there along the part of the shed where No. 8 is to obstruct the view out to the river? A. That question I could not answer because I do not remember—I was not expecting this.

(Signed)

ALBERT S. HAIGHT.

Subscribed and sworn to before me this 12th day of October, A. D. 1904.

[Seal of Laura A. Shugrue, Notary Public, District of Columbia.]

LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

254

JOHN B. PADGETT.

JOHN B. PADGETT, a witness of lawful age, produced on behalf of the libelee, having first been duly sworn, testified as follows:

Direct examination.

(By Mr. DARLINGTON :)

Q. What is your full name? A. John B. Padgett.

Q. What is your occupation? A. Manager of the Washington Steamboat Company, Limited.

Q. Did you hold that position in May, 1903? A. I did, sir.

Q. Were you present at the burning of the Columbia? A. I was not when it first started.

Q. Where were you then? A. In Alexandria, Virginia.

Q. Did you come to the fire? A. I did.

Q. When did you arrive at the fire? A. I left Alexandria about 10.30 and I suppose it was between 11.30 and 12 o'clock when I got there—I could not tell exactly—I did not look at my watch.

Q. What was the condition of the fire when you arrived? A. They had it virtually subdued when I arrived—had it under control.

Q. Did they have it under control or out? A. Not out—the engines were at work when I got there.

Q. How long after you arrived before the fire was out? 255 A. I was there some time—I left there to catch the last car and the firemen were still there then—between 12 and 1 o'clock.

Q. I am not asking, Mr. Padgett, whether the firemen were there,

but whether the fire was burning? A. You asked if the fire was out?

Q. Was the fire out? A. No.

Q. What was burning when you left? A. The sparks were being put out.

Q. The sparks on the boat or on the wharf? A. All around.

Q. Where were the firemen who were putting out the sparks on the boat etc. at that time? A. On the wharf.

Q. Are you quite sure there were any sparks on the boat at that time? A. I am not sure, Mr. Darlington, it has been so long from that day.

Q. Some things have been said here about piles extending above the floor of the solid wharf of the side of the slip; can you state how near together those piles are? A. They run all the way from 8 to 10 inches in some places 2 feet or 18 inches where they have been broken off.

Q. Can you state whether they are so close together that anyone standing on the solid wharf there would have any difficulty in seeing out into the river—in seeing a tug boat if there was one? A. There would be no difficulty; if it were not too dark, you could see between the piles.

Q. It is claimed in this case, Mr. Padgett, that, after the fire 256 was over, you congratulated the captain of the tug boat Sarah for the good service he had done in putting out the fire? A. I thanked him for his kindly services, as I would have done anybody.

Q. What personal knowledge had you of the services he had rendered? A. None but what he told me—he said he had ruined a suit of clothes, and I remarked if that was the case we would reimburse him for his suit of clothes.

Cross-examination.

(By Mr. ABERCROMBIE:)

Q. Mr. Padgett, do you remember any conversation you had with Captain Cannon that night as to the work he had done and as to compensation? A. All the conversation I had with him was in regard to his suit of clothes.

Q. I will read you what Captain Cannon says in his testimony at page 11: "Only about the burning of the steamer and I think the next morning when I started to leave there I told him I had ruined my clothes and my watch had got wet *and* the inside and I thought I had ruined that and he says put in your claim and I will see what I can do to see that you get your claim; I will do what I can for you. I says then Mr. Padgett we are fixed to fight fires and we will have to be compensated something for this—someone will have to pay us for carrying our hose. I think that is the remark I made to Mr. Padgett. A. He said nothing at all about putting in a claim, only what he said in reference to his clothes.

257 Q. Do I understand you to say that Captain Cannon said nothing about it, or that you do not remember? A. I do not remember him saying anything only in regard to his clothes—the only claim I heard anything about.

Q. Can you fix the time when you left? A. Left where?

Q. The fire that night. A. I left there between 12 and 1 o'clock—I had to go to the telegraph office and telegraph people in New York—I walked from the fire down to Captain Sutton's office and mentioned the fact to him that I would go up and telegraph to owners—he thought it best thing I could do, but I connot recollect what time it was.

Q. You say you arrived somewhere between 11.30 and 12 o'clock and you left sometime between 12 and 1—you were not there very long? A. Possibly an hour.

Q. What was the condition of the fire when you left? A. There were sparks around the shed and boat, and the firemen when I left there were at work putting out the fire under the shed alongside the boat.

Q. Had the ferry boat sunk? A. The ferry boat sank after I got there—because I got off her when she was sinking.

Q. How did the fire start? A. That I am not able to say—I was not there.

Q. I did not know but that you had a report? A. Only that it was reported that it had started around the stack.

Q. Mr. Padgett, are you familiar enough with the surroundings of that place that evening, to tell us what was in that shed? A.

What was in that shed? What do you mean?

258 Q. What obstructions were in this shed? A. In this large yellow shed?

A. Yes. A. None that I know of—we always keep that shed clear from here out (indicating the east line of large shed) for wagons going in and out.

Q. There has been some testimony today in reference to a coal shed on this wharf; will you please explain? A. These coal sheds are not used as coal sheds now and are here (indicating the southern end of the large yellow space). Mr. Abercrombie, we kept coal in them at one time.

Q. Is there no coal kept in it? A. The coal was all back under these sheds (indicating the northeast section of the large yellow shed). We kept those coal sheds full of coal when we were running the river boats, and, when we got rid of the river boats, we had no use for them. I do not think there was any coal there that night to interfere with anyone.

Q. What is there along this part of the shed where No. 8 is designated? A. Along there (pointing)?

Q. Yes. A. There is a wharf running out there, a little shed, an oil room and a carpenter's shop on the east side of the slip—all enclosed under the shed.

Q. Does that make an obstruction so that you cannot see out into

the slip? A. The oil room does not run to the slip, but a few feet from it.

Q. Do I understand by that that, back of the oil room and the carpenter's shop, there is still wharf room? A. Plenty of it—the solid wharf runs out clean out to the street.

259 Q. I mean toward the slip? From the oil shed and carpenter shop toward the slip? A. There was no room at all—the oil shed and carpenter shop are right on the edge of the dock, not of the slip—they only run about half way to the slip toward the apron.

Q. What is the apron? A. The apron is a box under the wharf that rises and falls with the tide so that the boats can come in and out to land passengers and wagons.

Q. How far into the slip does that apron extend? A. I suppose 40 feet.

Q. Does this drawing here show the apron? A. No that does not show—(looking at diagram) I thought it did not show.

Q. Look at the diagram and mark the distance out, in your judgment, that the apron extends into the slip? A. The apron comes out to about here (indicating by letter "A").

Q. As I understand, the ferry boat comes to the end of that apron and stands in her slip? A. Yes, sir.

Q. What is the size or length of the Columbia? A. I think 150 feet.

Q. How far does the Columbia extend beyond the ends of the wharf when she is in her slip? A. I suppose possibly 25 or 30 feet.

Q. Mr. Padgett, where is the Columbia there? A. Lying at the foot of 7th street wharf—in the ferry slip—at the ferry wharf.

Q. What was the damage done to her?

260 Mr. DARLINGTON: I object on the ground first that this is not responsive to the examination, and, secondly, because Mr. Padgett, the witness, has not been shown to possess, and so far as the libellee is concerned is not supposed to possess, the requisite qualifications to testify to the amount of damage done. I have no objection to counsel, after showing Mr. Padgett's qualifications, making him his own witness on this point, but give notice that we will invoke the rule that, as to matters concerning which the witness has not testified in chief, he will be regarded as a witness for the other side.

Mr. ABERCROMBIE: Counsel for the libelant replies that, inasmuch as Mr. Padgett is the manager of the Washington Steamboat Company, Limited, the owner of the steamer Columbia, he has a right to cross examine him with reference to the value of the Columbia at the time she was destroyed by the fire in May, 1903.

Mr. DARLINGTON: Undoubtedly as your own witness, and provided you show that he has the requisite qualifications.

A. I am not able to say.

Q. Did you receive, or did you see the report of the experts on behalf of the steamboat company at the time the insurance was ad-

justed? A. I did not sir. It was all referred to Mr. Faulhaber of New York.

Q. To whom was the report sent? A. To Mr. Faulhaber in New York.

Q. Did you see it? A. No, sir.

Q. Were you told of it? A. No, sir, nothing.

Q. By Mr. Faulhaber or anyone else connected with the company?

A. I do not remember being told anything about it by any-
261 one connected with the company.

Q. Do you know what the insurance loss was?

A. Mr. DARLINGTON: Do you mean what was paid by the insurance company as the loss?

Mr. ABERCROMBIE: Yes.

A. I am not sure about that Mr. Abercrombie—I have kept no record of these transactions, but if my mind serves me right they got \$37,5000 I think—as near as I can come to it.

Q. To whom does the steamer, as she now lies belong? A. To the Washington Steamboat Company, Limited.

Q. The same owners? A. The same owners who owned the boat before she was burned.

Q. In other words they received the insurance and still retain the steamer. A. Yes, sir.

Q. Do you know the value of the steamer Columbia prior to the fire? A. I do not—I would not like to put a valuation upon her.

Q. Before the fire I mean? A. I would not like to put a valuation upon her.

Q. What did the company pay for her when she was built? A. I do not know—that was all under Mr. Ridley's management—I do not know what she cost.

Q. You mean she was purchased before you became the manager? A. Yes, sir.

Q. Mr. Padgett, have you been informed at all as to what is to be done with the Columbia?

Mr. DARLINGTON: I make the same objection and give the same notice as above.

262 A. Well, I cannot say what is going to be done with her, Mr. Abercrombie—I am in hopes they will rebuild her—it lies altogether with the people in New York.

Q. I am informed from a report in the Washington papers that, as soon as the suit of the James Clark Company against the Columbia was settled, that the Columbia would be sent around to William H. Woodhall and Company at Baltimore to be rebuilt. Can you state whether such a report is true or not? A. I know nothing more of it than I saw in the newspapers.

Q. Then you have no knowledge outside of the newspapers as to the ferry boat? A. No, sir, outside of the newspapers—I saw that report myself in the papers.

Q. You have not been consulted in any way as to the disposition of the wreck of the steamer Columbia? A. Not in any way.

Q. You are not interested in the company other than as the manager? A. Not in any way except as a salaried officer.

Redirect examination.

(By Mr. DARLINGTON:)

Q. Do you know what authority the newspapers had for the report which has been referred to? A. I do not.

Q. What are your duties as manager? A. Looking after the interests of the company—purchasing of supplies—business in general.

Q. Does that include the disposition of the wreck of the
263 Columbia or the rebuilding it? A. I have nothing to do with her until I get orders from New York.

Q. Is New York the headquarters of the company? A. Yes, sir.

Q. Have you ever bought or sold boats for the company? A. No, sir, never.

Q. Please look again at Defendant's Exhibit No. 3; you notice, do you, the line of the sheds immediately north of the slip? A. This is the shed coming out on the slip (referring to the shed on which the mark No. 4 occurs).

Q. How near is the line of that shed adjacent to the slip? A. It is the bow of the ferry boat going or coming.

Q. Yes, how near is it? A. From that shed I judge it is about 55 or 60 feet—in that neighborhood.

Q. In other words, when the ferry boat is in position, discharging freight or passengers, your judgment is that the forward end of the boat is 50 or 60 feet south of that shed? A. Yes, 50 or 60 feet south of that shed.

Q. What is beneath the end of that shed? A. Nothing.

Q. Water? A. No, sir, an apron comes out.

Q. What is under the apron? A. A box and under that is water—we use this box to float the apron.

Q. The water does not then come up to the line of the shed? A. No, sir. The water comes up to within a few feet of the line
264 of the shed—there is a solid bulk head.

Q. Now, between that bulk head, and the forward end of the boat when she is discharging passengers or freights, what is there? A. The apron there.

Q. Does the apron extend the whole distance? A. Yes, sir.

Q. With regard to the floor of the shedded wharf, how high is that apron—what I want to know is, is it higher or lower than the floor of the sheds? A. It rises and lowers with the tide, with the rise and fall of the tide, and it is always back level with this end of the wharf.

Q. Which end? A. The in port end.

Q. It is not, then, a structure that would obstruct the vision? A. No, sir.

Q. You say that you got off the boat when she was sinking? A. Yes, sir.

Q. How did you get off? A. Well, I walked off.

Q. And you walked off from the boat, where? A. On to this apron.

Q. Were you with any of those parties who were rescued off the sinking wreck by the tug Sarah? A. No, sir.

Q. Did you see Captain Fowke when you got off the boat? A. I remember I recollect seeing Captain Fowke.

265 Recross-examination.

(By Mr. ABERCROMBIE :)

Q. When you were on the Columbia did you see Captain Cannon and his crew on the Columbia? A. No, sir.

JOHN B. PADGETT.

Subscribed and sworn to before me this 10th day of October, A. D. 1904.

[SEAL.]

LAURA A. SHUGRUE,
Notary Public in and for the District of Columbia.

266

R. T. FOWKE.

R. T. FOWKE, a witness of lawful age, produced on behalf of the libelee, having first been duly sworn, testified as follows:

Direct examination.

(By Mr. DARLINGTON :)

Q. State your full name? A. Roy T. Fowke.

Q. Were you at any time connected with the ferry boat company? A. Yes, sir.

Q. What was your connection with the ferry boat Columbia? A. Captain.

Q. Were you at the fire? A. Yes, sir.

Q. Where — you when you first learned of the fire? A. I was at my house.

Q. How far from the wharf? A. One square.

Q. When you arrived at the scene of the fire what did you find? A. I found the fire burning a little around the smokestack.

Q. Had any engines arrived then? A. None at all.

Q. What did you do? A. I ran a line of hose that belonged on the wharf.

Q. Were you able to use them? A. No, sir, they were not long enough.

267 Q. How soon after that was it before the first fire engine come? A. I imagine 4—5—6 minutes.

Q. Did you see the engine? A. No, sir.

Q. Did you see the company? A. I saw the hose carriage when it arrived on the wharf.

Q. What difficulty, if any, was there in getting the hose carriage and firemen on the wharf immediately adjacent to the slip, on either side of it? A. There was none at all.

Q. How soon after the first engine arrived was it after the other engines came? A. I did not see the engines at all—only saw the hose.

Q. How soon after the hose and the men of the first engine company arrived was it before you saw the hose and men of the other companies on the ground? A. Well, we ran two sections of hose off the first carriage, and by that time another came up to the gate on the wharf—one was already out on the wharf—and I went there and ran men through the coal yards—a second line of hose was on the east side of the wharf.

Q. What part, if any, did you take in locating the lines of hose of the first company? A. The men seemed to be a little scarce when it came, and I helped to pull the hose off the carriage right to the end of the boat.

Q. From what points did the firemen fight the fire first? A. From the north—from the west—and from the east.

Q. How near the boat did they approach with their nozzles? A. About 10 feet.

Q. Then where did you go to fight the fire? A. Outside where No. 4 was fighting in addition to the other engines—I was helping them.

Q. Did the men handling the nozzles of these four lines fight the fire from the wharf all the time, or did they go on the boat part of the time? A. At first they were on the wharf, afterwards on the boat.

Q. About how long did they fight on the wharf before they got on the boat? A. That I could not say.

Q. Was it a long or a short time? A. I suppose about half an hour.

Q. Can you tell us how many nozzles and hose were carried on to the boat to fight the fire? A. No, sir.

Q. More than one? A. More than 4 or 5 I think.

Q. How many firemen did you see go on the boat? A. Generally 4 to a nozzle.

Q. And from your best recollection you would say how many firemen were on the boat altogether? A. 12—15—20.

Q. After they got on the boat, did you see them fight the fire? A. After they got on the boat, the fire was pretty well down then, and they began to fight it on deck and down in the hold.

Q. How did they manage to fight down in the hold? A. We put nozzles down.

Q. How did you get nozzles down? A. They cut holes in the deck.

Q. What was the size of these holes? A. About 10 to 12 inches I suppose.

Q. Did you see the tug boat Sarah and her crew that night? A. Yes, sir.

Q. Where was she when you first saw her? A. Between the south end of the Columbia and the Samuel J. Pentz—about 100 feet space between the Pentz and the Columbia—and she was lying in that space.

Q. How near the Columbia was she lying when you first saw her? A. I guess about maybe 30 or 40 feet when I first saw her.

Q. Did you see her come up and take that position? A. I did not.

Q. What was she doing when you first saw her? A. Lying off there with her hose—getting ready to throw water on the Columbia.

Q. Did you see her before they began to throw water? A. No, sir.

Q. She was throwing when you first saw her? A. Yes, sir.

Q. About how long was that before the fire engines arrived? A. I do not know how long it would be—we ran 4 lines of hose and she was not there when I ran off the 4 lines of hose.

Q. And how do you know she was not there? A. We ran 270 the two first ones on the north and the west sides and the two sections on the east side right down to the end of the boat.

Q. And you were there helping? A. Yes, sir.

Q. Could there have been a tug lying at the end of the Columbia throwing a stream of water at that time without our seeing it? A. No, sir, without my seeing her.

Q. How long after you helped run out the 4 lines of hose was it that you saw the Sarah? A. I did not see her until after the shed fell down and that was nearly three quarters of an hour after we laid the first line of hose.

Q. How long, according to your best recollection, was it before you laid the fourth line? A. I do not remember that, either—the fourth line was the one the shed fell on and I was working helping to get the planks off.

A. Did you go aboard the Columbia yourself? A. Yes, sir.

Q. Before or after you saw the Sarah? A. Before and after too.

Q. Who was on the Columbia first, you or the firemen? A. I was on there before the fire got to burning much, and had to come off, and the firemen went on next, and I went with them.

Q. When you were on the first time and had to come off, did you see anybody on the boat at all? A. Nobody at all.

Q. Was there any of the tug boat Sarah's crew on there at that time? A. No, sir.

271 Q. Did anybody speak to you while you were there the first time? A. No, sir, no one at all.

Q. When did you first see any of the tug boat Sarah's crew on board the Columbia? A. After the fire had been put out,—so that you could walk down across the deck.

Q. How long was that after the firemen of the fire department had been on the boat? A. It was more than an hour.

Q. Were you on the Columbia when she sank? A. Yes sir.

Q. How did you get off? A. Walked off on the slip.

Q. Did you walk off on the Sarah? A. No, sir.

Q. It is claimed by the captain of the Sarah and perhaps others that you were rescued off the Columbia by the Sarah and her crew. What do you say about that? A. I know nothing of it.

Q. Were you on the Sarah at all? A. I was not on board of her.

Q. At any time? A. No, sir.

Q. Did you see the firemen when they left the Columbia? A. Yes, sir.

Q. How did they get off? A. They walked off on the slip.

Q. Were any of them rescued off the wreck of the Columbia by the tug boat Sarah or her crew? A. None that I saw.

272 Q. What, if anything, do you know of the rear guard of the ferry catching the tug's guards when the Columbia sank?

A. When the Columbia was sinking there—there is a little guard that goes around the side of the tug boat—I suppose about 6 inches, sets off the side of the tug boat, that got under the edge of the Columbia as she was sinking, and I went there and shoved her out myself.

Q. Any trouble or difficulty about it? A. None at all, sir.

Q. What did you shove her off with? A. A little piece of plank lay on the deck—a inch plank—I pried her off and shoved her out.

Q. Did the Columbia sink all at once, or gradually? A. She sank gradually.

Q. How long after your prying the two boats apart was it that she settled under water? A. 15 or 20 minutes.

Q. It is claimed on behalf of the tug boat, Captain, that her crew were on board the Columbia half an hour before any of the firemen got on board her, and they found you fumbling about the boat when they got on? A. There is nothing in it at all.

Q. How long did you remain up and around the ground that night? A. Until everything was over and everybody gone home.

Q. How about the sparks and things like that after the fire was over? A. There was nothing to be put out after the fire engines left.

Q. I mean at the last of it? A. The engines put out all that I saw.

273 Q. It is claimed on behalf of the tug boat Sarah that the engines went away while the sparks were still falling around, and that the tug boat and her crew remained and put out the sparks and kept down the fire after the last fire department company had gone; how does that correspond with what you saw? A. There was not anything of it.

Q. It is also claimed that the crew were exposed to danger from falling timbers during the fire while on the boat? A. There was nothing up but an inch rod to fall on the deck—that was all there was to fall.

Q. Were you on board the Columbia when it fell? A. Yes, sir.

Q. Did you see any of the Sarah's men at that time? A. Yes, sir.

Q. They were on board at that time? A. Yes sir.

Q. Did this rod fall anywhere near where the Sarah's men were? A. About 20 to 30 feet from them.

Q. What kind of a rod was this? A. A one inch iron rod.

Q. How long was it? A. It reaches up from the guards of the boat about 25 feet and goes across the deck of the boat about 30 feet, goes down on the other side again about 25 feet.

Q. It was not a straight rod then? A. No, sir, it was not a straight rod.

Q. Did it fall near anybody? A. No, sir, no nearer than Captain Cannon's men—only ones who were there then.

Q. Did you see any open hatchways on the boat? A. None 274 until I opened them.

Q. When did you open them? A. When we wanted to get the hose down in the hull of the boat.

Q. What danger was there of men stumbling into the hatchways in the dark, after you opened them? A. None at all.

Q. Why not? A. Simply because too small—the plate about 12 to 14 inches across—I raised it off while the hose was put down.

Q. You say you raised the plate up until the hose were put down? A. Raised it to use it, and closed it up again.

Q. During the time that the cover or plate was off the hole, what was being done with it? A. Using of it with the hose down in there.

Q. How near were the men to it who were using it? Q. The firemen with the nozzles down in it were standing right over it.

Q. What chance was there for a tug-man to fall into the hole? A. Not any at all, sir.

Q. What do you know about these piles extending above the floor of the solid wharf? A. On the west side there might have been—maybe 25 or 30 of them in a distance of 75 feet.

Q. What obstruction to the view did they create? A. Not any at all.

Q. How was it on the east side? A. On the east side there were some few for about 15 feet and there was no more until you got far back to the eastern end of the boat, and then there is a bunch of about 15 or 20 altogether.

275 Q. To what extent would they obstruct the view of the tug boat lying at the south end of the boat? A. Not any at all.

Q. When the ferry boat Columbia was lying at the wharf in a position to discharge freight and passengers, how near the shed marked No. 4 on Defendant's Exhibit No. 3, would the forward end of the boat be? A. About 40 feet.

Q. And over that 40 feet would be what? A. Be end of boat—out.

Q. I mean what was between the south end of the shed marked
16-1543A

No. 4 and the front of the boat? A. We would call it the apron or bridge.

Q. A kind of platform for the landing of passengers and things? A. Yes, sir.

Q. Was that the thing that wagons and things drive across to get on the boat? A. Yes, sir.

Cross-examination.

(By Mr. ABERCROMBIE:)

Q. What was the stage of the fire when this iron rod that you spoke of fell? A. All the upper deck had burned—all the saloon deck and all the wood had burned away from the bottom part of the rod that held it up.

Q. You said a while ago that there was not anything to fall when the superstructure of the vessel was burning; did none of it fall? A. Yes, sir, it all fell.

Q. Did you see it fall? A. Yes, sir.

Q. Did you see this iron rod fall? A. I cannot say that for certain.

Q. Then how could you say that it did not fall on Captain Cannon's men? A. I was working with his men.

Q. At the time it fell and you did not see it fall? A. I did not see it fall.

Q. Captain Fowke, I will read you what Captain Cannon says in his answer at the bottom of page 13 of his testimony: "When I arrived alongside of the steamer and made my tug boat fast on this end projecting out into the river I came down out of the pilot house and took hold of the nozzle attached to the hose and got on the ferry boat deck and went up into the driveway. They have a driveway on each side of the ferry boat. I was fighting that fire over head until the inside work fell and we then played the water around the engine and boiler room where the heat was the greatest. I did that to save that boiler and engine the best I could and then there was an iron brace and the wood had burned from around it and that fell down across our hose and we had to get our hose out and put it above the brace that fell down—hog brace I guess they call that. I then went up on the port side of the ferry boat and then the firemen got in there and cut a hole down through the deck where the wagons drive through, where there was some fire down the lower engine room and put that out. We got out of there and played where the fire was close to the coal bunkers; the flames began to rush through

and put that all out; then the fire was between the engine 277 room and boiler. I saw the blaze flaming up through there

and we put the hose on the deck and had to kneel on it to hold it and after we got the nozzle down on deck I got on it with my knees and worked it around between the decks and between the beams and the water was running down in the hold until she took

water in the ash pit. The captain told me afterwards that the ash pit was open." Did you see any of it? A. I saw some of it.

Q. What did you see? A. I helped Captain Cannon with his hose when he played water on the boiler room in the hold of the boat—the stair way that led to the hold of the boat had fallen down—there was some fire fell down in this lower engine room—he stood on the steps, and I held the hose to him and he put the fire out down in the hull of the boat.

Q. Then the testimony that I read to you of Captain Cannon was substantially correct? A. No, sir.

Q. Where is it wrong? A. As to his playing water on the things in the hold—I know nothing of it.

Q. Captain Cannon says at the bottom of page 14 of his testimony: "I saw the blaze flaming up through there and we put the hose on the deck and had to kneel on it to hold it and after we got the nozzle down on the deck I got on it with my knees and worked it around between the decks" etc. You say you saw nothing of it? A. No, sir.

Q. Would you say it was not done? A. I say I never saw it. I did not see it.

Q. Then how can you say whether it is correct or not if 278 you did not see it? A. As far as I know it was not.

Q. All that you can say is that you did not see it; you cannot say whether it was correct or not, it may have been without your seeing it? A. No, sir, I did not see it.

Q. Are you in the employ of the company now, Captain? A. Yes, sir.

Q. What boat? A. The George Washington.

Q. Do you know anything of the value of the Columbia? A. No, sir.

Q. When you arrived there didn't you say there was a hose carriage? A. No, sir.

Q. After you arrived the hose carriage came? A. Yes, sir.

Q. Where did it take its stand? A. I directed the hose right out to the end of the boat—I helped to pull them off.

Q. Right to the end of the boat? A. Yes, sir.

Q. Where abouts? A. North end.

Q. Then you do not agree with Captain Wagner when he says that upon the arrival of the first hose carriage they fought the fire towards the entrance to the steamer. A. Yes, sir.

Q. What do you mean by "yes"? that your testimony of Captain Cannon's is the correct one?

Mr. DARLINGTON: I object, as there is no contradiction between the two statements in so far as counsel can see.

279 Q. You have testified that, when the hose carriage arrived, you took the hose and carried it right to the steamer? A. Right along the wharf to the north end of the steamer, and pulled the hose out right at the north end of the steamer.

Q. Did you hear Chief Wagner give his testimony this morning?
A. I heard him.

Q. Captain Wagner says that, before they could get to the front of the steamer, they had to fight and put out the fire in the shed first; is that correct or not? A. They ran a line of hose to the north end of the boat, went back and ran a second line of hose, running them around the west side of the boat, and threw the water on the face of the shed that was just starting to burn.

Q. Then I understand from what you say that, when the first hose carriage arrived, there was no fire in this shed? A. No, not around back in this driveway.

Q. Then another hose carriage came, and you said you directed them through the coal yard? A. Through the coal yard.

Q. Where is the coal yard? A. It comes in right here (indicating long strip east of the south side of the waiting room). Here is the coal yard gate (indicating a white space which is marked "coal yard gate").

Q. What is the building alongside of the coal yard gate towards the ferry? A. That one? That is a little cattle pen (indicating spot marked "pen").

Q. What is the wide space, white? A. Nothing but ground here (indicating spot marked "ground").

280 Q. As I understand it, your testimony is that you directed one of the hose to drive right through that space? A. Two lines of hose.

Q. And where did they take their stand? A. First one came down on this wharf (indicating the spot marked "east solid wharf").

Q. And where did the other go? A. The other came out under the coal sheds here (pointing to spot on map).

Q. And where are the coal sheds? A. Here (indicating southern extremity of the large yellow sheds).

Q. Was there any coal in the sheds at that time? A. There may have been some little coal but not much—only running one boat—did not use much coal.

Q. Then you fought the fire from the wharf, and I understand you have testified that it was a half an hour before you got on the boat? A. All of a half an hour before I got on the boat.

Q. And when you did get on the boat, the superstructure was gone? A. All gone.

Q. And it was then that they began to cut a hole in the deck to fight the fire below? A. Yes, sir.

Q. Will you indicate on the map the position of the Sarah when you first saw her? A. Along about here (indicating the word "Sarah").

Q. What was she doing? A. She was not doing anything at that time—she had just come up there I suppose.

281 Q. I do not want you to suppose but want you to give us the facts as far as you know them. A. She had just come there and stopped.

Q. How do you know she had just come there? A. I had not seen her before—that was the first time I saw her.

Q. She was not moving? A. No, sir.

Q. Standing still? A. Yes, sir.

Q. Throwing water on the Columbia? A. Yes, sir.

Q. There was a pretty big blaze there that night, Captain? A. Yes, sir.

Q. Could you see out into the river? A. Yes, sir.

Q. Very plainly? A. Yes, sir.

Q. Saw by the fire through the fire out into the river? A. I saw around it.

Q. How could you see around the fire? A. By the light that it gave—saw all around—everywhere by the light it gave.

Q. Do you mean by that that you could see objects beyond the fire? on the sides? A. Yes, sir.

Q. You could not see objects that were directly around the fire? A. No, sir.

Q. Mr. Lanahan, a witness, has testified that he had a line
282 of hose on the Carter, and that the Carter was going up and down by the Columbia playing water into the Columbia; did you see that? A. No, sir.

Q. Did you see the Newport News pulled out that night? A. No, sir.

Q. Did you see her lying at her wharf? A. Yes, sir, I saw her after she was pulled out.

Q. Did you see the Macalester at her dock? A. Yes, sir.

Q. Did you see her pulled out? A. No, sir.

Q. Did you see her after she was pulled out? A. Yes, sir.

Q. How long was it after you arrived at the fire until you saw the Sarah? A. That I could not say—I do not know.

Q. Well you have given us an idea as to the time of other occurrences, among them, how long after the arrival of the engines it was before you got on the boat—cannot you in the same way fix the time when you first saw the Sarah? A. I would say it was over half an hour.

Q. Over a half an hour? A. Yes, sir.

Q. From the time you arrived at the fire until you saw the Sarah? A. Yes, sir.

Q. How long a time was it from the time you arrived at the fire until you went on the Columbia? A. From the time I arrived at the fire?

Q. Yes, until you were able to get on the Columbia with
283 the firemen and fight the fire? A. Well there were firemen on there before I went—the District firemen were there before I went. I judge it was three quarters of an hour before I went on there.

Q. I think you originally testified that you went on with the firemen at first? A. No, sir. I went on before the firemen got there—

ran my hose on there but they were not long enough to reach the fire so had to come off.

Q. What was burning then? A. Just burning then on the hurricane deck.

Q. The superstructure was then on fire? A. Yes, sir.

Q. There was nothing else on fire at that time? A. No, sir.

Q. Did you see the crew of the Sarah on the Columbia? A. Yes, sir.

Q. At what stage of the fire? A. After it was burned down so that I could walk down across deck.

Q. Is it not possible that the crew of the Sarah could have been on one end of that boat fighting and the firemen on the other end fighting and not known that each other was there? A. Yes, sir.

Q. Did you have any conversation with Captain Cannon that night? A. Yes, sir. I was talking a good deal with him when I was with him.

Q. Did you discuss the fire? A. No, sir.

Q. Did you tell him anything about the origin of the fire? A. No, sir; I do not know that I did discuss it with him. He 284 may have asked me how it caught and I might have answered around the smokestack was the first I had seen.

Q. Did you tell him there was any watchman on the boat that night? A. No, sir.

Q. Was there one? A. Yes, sir.

Q. Sure? A. There was a watchman on the wharf and boat together that night all the time.

Q. Do you know whether he was there or not that night? A. No, sir, I was not there myself to see.

Q. Did you see him when you got down to the boat that night? A. No, sir.

Q. You saw no one at all when you arrived at the boat? A. No one at the wharf except—a little crowd were getting on Mr. Jones boat to shove her out—he might have been with them.

Q. Do you know what they are going to do with the Columbia? A. No, sir.

Redirect examination.

(By Mr. DARLINGTON:)

Q. Where is the watchman? A. He is now home in bed.

Q. How long has he been in bed? A. Since last fall some time.

Q. What is the matter with him? A. He happened to an accident—the cars struck him.

285 Q. Been shut in ever since? A. Yes, sir.

Q. What were you and the Sarah's men doing when the rod fell? A. We were working mainly around to the boiler room putting water on the boat.

Q. Was anybody on the boat when the pilot house and the superstructure fell in? A. Not that I know of—when they fell in.

Q. Was that before or after you saw the tug Sarah out between the Pentz and the Columbia? A. Some time afterwards that the front part of the house fell in.

Q. Where was the Sarah when this pilot house fell in? A. She had not got there when the pilot house fell in.

Q. How large was this fire in the room that you and Captain Cannon put out? A. Very small—it was some which had fallen down through a hole about this long (indicating a space of three feet)—right at the face of the engine.

Q. How long did it take you to put it out? A. In five minutes.

Q. How long were you and he working around the boiler? A. I should judge I was working with him 15 or 20 minutes.

Q. Did you see him or his men doing any other work except these two things? A. No, sir.

Q. Where were the firemen when you saw the Sarah in between the Pentz and the Columbia? A. The ones that I saw that 286 were there were around on the east side of the wharf.

Q. Had any of them gone on the boat at that time? A. No, sir.

Q. When the fireman boarded the boat first, where was the Sarah? A. The Sarah was then at the south end of the boat.

Q. How long had she been there? A. That I do not know.

Q. Had any of her men gone on the boat? A. I do not know whether they had or not—could not see her.

Q. If they had been there and throwing a 3 inch stream of water on the fire could you not have seen it? A. Been very apt to see a 3 inch stream of water—that is a very large one.

Q. If they had been there and throwing a stream as large as the fire engines were throwing—would you not have seen them? A. Yes, sir, I reckon I would.

Recross-examination.

Q. When the pilot house was falling, you say the Sarah was not there? A. I mean I did not see her.

Q. You mean you did not see her or you could not say? A. No, sir.

ROY T. FOWKES.

Subscribed and sworn to before me this 10th day of October, A. D. 1904.

[SEAL.] LAURA R. SHUGRUE,
Notary Public in and for the District of Columbia.

287

Filed January 13, 1905.

410 FIFTH STREET N. W., *October 31st, 1904.*

Met pursuant to adjournment.

Present: H. N. Abercrombie, Esq., proctor for the libellant, and J. J. Darlington, Esq., proctor for the libellee.

JAMES WOODALL, a witness of lawful age, produced on behalf of the libellee, having been first duly sworn, testified as follows:

JAMES WOODALL.

Direct examination.

(By Mr. DARLINGTON :)

Q. What is your name? A. James Woodall.

Q. Where is your residence? A. Baltimore city.

Q. What is your occupation? A. Shipbuilder.

Q. What brings you to Washington to-day? A. The principal thing that brought me to Washington to-day was to look into the repairs of steamer "General Washington," but I am over here, also, by request in this matter of the parties represented—making one visit.

Q. Do you know the ferry boat Columbia that was burned last year? A. I do.

Q. Had you anything to do with the valuation put upon the wreck, or the estimate of the damage to that steamer, in the adjustment between the Washington Steamboat Company and the fire insurance company? A. Yes, sir, I was the adjuster representing the Washington Steamboat Company.

Q. What was that company? A. The Washington Steamboat Company.

Q. Who was the adjuster representing the fire insurance company? A. Mr. Burlee of New York.

Q. Did you make an examination of the wreck to ascertain the value? A. We did, sir.

Q. What has been your experience in the construction of vessels? A. I have had 43 years' experience in the matter and have handled them in almost every direction.

Q. In building, buying and selling? A. Yes, sir, in building, buying and selling. I have built them, bought them and sold them.

Q. What experience, if any, have you had in repairing steamers? A. That is the principal part of our business, repairing—90 % of it.

Q. About when did you and Mr. Burlee examine this wreck with a view of ascertaining its value? A. Well, I could not say positively—possibly four weeks after the fire.

Q. Now, will you please give me the estimate you then made?

A. Here is a written statement that will give it to you and save a good deal of writing and explanation if accepted.

Q. Who made the statement? A. The statement was made
289 between Mr. Burlee and myself. We agreed upon it at Washington city at the time of the appraisement.

Q. And is that a correct statement, according to your best judgment, of the value of the steamer, and of the extent of the damages, and of the value of the wreck? A. It is, sir. The opinion we had both agreed upon. It was rather a hard matter at the time to get Mr. Burlee to agree to it.

Q. Do I understand that is the joint estimate of you both upon which the fire insurance was adjusted? A. Yes, sir.

The paper is offered in evidence, after exhibition to Mr. Abercrombie, counsel for libelant, is marked "James Woodall No. 1," and is as follows:

Contract price.....	\$44,000
Depreciation at 5 % in 11 years.....	24,200
Leaves value of steamer.....	19,800
Add for benefit repairs.....	13,700
Value of steamer before fire.....	33,500
Cost of machinery repairs	\$7,000
Cost of joiner work	15,000
Repairs to hull	5,800
Equipments	1,200
Take this from.....	\$29,000
Value of hull before fire leaves a balance of.....	\$4,500
(See below)	
	\$33,500
	29,000
Value of hull in damaged condition	\$4,500

290 Cross-examination.

(By Mr. ABERCROMBIE:)

Q. Mr. Woodall, will you please explain the statement that you have filed? A. The first part, \$44,000, was the contract price. There was then a depreciation fixed at 5 % for 11 years which made \$24,200, and taking this from the \$44,000 leaves a value of the steamer of \$19,800. Add on for repairs during that period of 11 years, \$13,700, the value of the steamer before the fire, \$33,500. We then fixed as adjusters the damage done to the machinery and boat, etc. The cost of repairs to the machinery would be \$7,000; cost of joiner work, \$15,000; repairs to hull, \$5,800; equipment,

\$12,000, making an amount of \$29,000 for repairs. Taking \$29,000 from the \$33,500, leaves a balance of \$4,500 as the valuation of the steamer as she lay in the condition we saw her in.

Q. Then you valued the steamer as she appeared after the fire at \$4,500? A. Yes, sir.

Q. Do you know in what condition the hull is or was at that time? A. Oh, yes, we had to know to fix the valuation.

Q. Will you please state in what condition the hull was? A. At that time it was in a deplorable condition—dirty and burned between the two bulkheads, where the engines and boilers were placed—it was very much damaged by fire. All the deck 291 being apparently burned out of her—all appeared very much damaged, and some of her beams were burned through, and otherwise all the joiner work was destroyed and the sheathing on the top of the deck was burned.

Q. Do you know what the cost of the installation of the machinery was originally? A. I think, if I remember properly, our contract with the James Clark Company was to be \$18,500, if my memory serves me right.

Q. And your estimate of the damage that has been done to the machinery is \$7,000? A. Yes, sir, \$7,000.

Q. What did you say the machinery is valued at now? A. I would not like to fix a value, because you cannot tell how much it is damaged, but we have taken that with the depreciation.

Q. Mr. Woodall, have you made an estimate to the steamboat company for the repair of this vessel? A. Yes, sir.

Q. That is for rebuilding her? A. Yes, sir, for rebuilding her, yes.

Q. Will you state if that is to put her in the condition she was before the fire or not? A. It was not to put her in the condition she was before the fire, because some of the things were left out that the company was going to furnish.

Q. What were you to do? A. Just repair the hull, machinery, joinder works, and paint her.

Q. Will you say what your figure is for repair? A. 292 \$21,500, but I could not be positive about that—but this did not include the repairs that might be done to the machinery, because it was an indefinite amount which could not be fixed at all.

Q. Then the putting of the machinery in condition was outside of your bid? A. Outside of our bid.

Q. Have you requested bids for the machinery? A. No, sir.

Q. Are you able to state what the cost of repairing the machinery would be? A. No, sir; if I had been able to state that I would have included it in the estimate.

Q. What would the steamboat be worth after you had repaired her? A. Expected her to be worth what she was before the fire, \$33,500.

Q. Mr. Woodall, is the steamer Columbia, as she lay after the fire, worth any more than the estimate you have put on her for the pur-

poses of adjusting the insurance, to anyone who would rebuild her? A. That would all depend on what he was going to do with her. I would not give any more for her—I would not give that.

Q. What would you say if an offer had been refused of \$5,000 for her? A. That was a matter for the party who made the transaction.

Q. Of the steamboat company? A. That is a matter of their management—I am not running it—I am only a shipbuilder.

Q. Would not that in itself indicate that it was worth
293 more than \$5,000 that they refused to accept that sum?

Mr. DARLINGTON: I object on the ground that the question is purely argumentative and does not call forth any fact within the knowledge of witness. I object also because it assumes a fact not proven, namely, that such an offer was made and declined.

A. It would not pay the company to sell her for that. It would cost the company over \$5,000 to clean her out. She was dirty and covered with filth when we valued her—covered with Potomac River mud.

Q. Then you say you placed the value to be paid by the insurance company at \$29,000? A. \$29,000 was the amount the company paid to the steamboat company for the damage to the steamboat—that was the amount at which we adjusted the damages—what the steamboat company got, I cannot say.

Q. Assuming then, Mr. Woodall, that \$29,000 was the amount paid for the damage done to the steamer, and assuming, also, that an offer of \$5,000 has been made for the vessel as she stood after the fire, would the two together make a valuation greater than was placed upon her in her condition before the fire? A. We cannot figure upon anything as to her valuation before the fire by anything we did after the fire—we were not there for that purpose.

Q. I notice by the estimate that you have filed here, that she was valued at \$44,000, the contract price when she was built, and you have allowed for depreciation 5 % for 11 years, and, also, an allowance for benefit of repairs, and you value the steamer as before the fire at \$33,500. A. Yes, sir.

294 Q. From your knowledge of the Columbia, was that a fair valuation? A. A fair valuation agreed upon between us, and at that time we were under oath to give as fair a valuation as we could—that was agreed upon between us.

Q. But the point I am getting at is whether or not the valuation of damages as fixed by the appraisers, and assuming that the proposition of \$5,000 had been made and refused for her as she stands to-day, would not that make more than the valuation as placed upon her by you in her condition before the fire ascertained from facts existing after the fire. A. It would simply increase her valuation \$500, making it \$34,000 instead of \$33,500.

Q. You originally constructed the Columbia, did you not? A. We did.

Q. I believe that the James Clark Company installed the machinery? A. They installed the machinery.

Q. Mr. Woodall, Mr. Cahill in answer to the question, "What would you say as to the value of the machinery on the Columbia at that time?" referring subsequently to the fire, said: "The machinery alone I would consider a very fair valuation, not less than fifteen thousand dollars." What would you say as to that?

Mr. DARLINGTON: I object to the question on the ground that it is incompetent to inquire of this witness as to his opinion of the value of Mr. Cahill's opinion, and I give notice that I will object to the reading of any answer to the question as being incompetent.

295 A. That was Mr. Cahill's opinion—I could not be governed by it at all.

296 Copy.

HEADQUARTERS OF THE FIRE DEPARTMENT,
DISTRICT OF COLUMBIA,
WASHINGTON, May 14, 1903.

Chief Engineer Robert W. Dutton, D. C. fire department.

SIR: I have the honor to extend through you to Captain Herbert Cannon, commanding the tug boat Sarah, of Baltimore, Maryland, my sincere thanks for the valuable services rendered by him to this department on the occasion of the burning of the steamboat Columbia, the property of the Washington and Alexandria Ferry Boat Company, the 13th instant, at the 7th street wharf.

The services rendered by Capt. Cannon, with the tug boat Sarah, were of great and valuable assistance, on account of the very efficient stream of water thrown by the boat upon the burning steamer from the river side.

In this connection, I wish to again invite the department's attention to the absolute necessity of a fire boat. It was clearly demonstrated at this fire that this locality has not proper fire protection, and had the wind been blowing at a velocity from 30 to 40 miles an hour, the fire would have, no doubt, gotten beyond control of the department.

Very respectfully,
(Signed)

WM. T. BELT,
Senior Assistant Chief Engineer.

297

Testimony for Libelant in Rebuttal.

Filed January 13, 1905.

In the Supreme Court of the District of Columbia, Holding a District Court for the United States for said District.

THE JAMES CLARK COMPANY OF BALTIMORE CITY)
(a Body Corporate), Owner of the Steam Tug Sarah,)
vs.) In Admiralty.
THE STEAM FERRY BOAT COLUMBIA AND OWNERS.)

Met pursuant to notice at No. 410 Fifth street N. W., Washington, D. C., at 3.30 p. m., December 5th, 1904. It is agreed that this testimony be taken before Laura A. Shugrue, a notary public; the signing, sealing, certification and filing waived, but subject to all legal exceptions to the competency and admissibility of the testimony; the stenographer's fees to be charged in lieu of notary's fees and to form the basis of taxation for costs.

Counsel present: H. N. Abercrombie, Esq., proctor for the libelant, and J. J. Darlington, proctor for the respondent.

298 ALEXANDER J. TAYLOR, a witness of lawful age, produced on behalf of the libelant, having first been duly sworn, testified as follows:

ALEXANDER J. TAYLOR.

Testimony in Rebuttal.

(By Mr. ABERCROMBIE:)

Q. Please state your full name? A. Alexander J. Taylor.

Q. What is your occupation? A. Owner of tugs—captain.

Q. What was your business in May, 1903? A. I did not take notice of the date—do you mean the year of the Columbia ferry boat fire?

Q. Yes. A. I was master of the tug James O. Carter.

Q. Do you remember the year of the fire? A. Yes, sir.

Q. Were you present at the fire yourself? A. Yes, sir.

Q. How did you come to be present? A. Well, when I heard the alarm of the fire I rushed down to the wharf and got on the tug James O. Carter and proceeded to the steamer Newport News.

Q. How far is that from the burning steamer—the Columbia? A. From the American Ice Company wharf to the steamer Newport News is three squares.

Q. I mean how far was the Newport News from the scene of the fire? A. Just one wharf.

299 Q. What was your business there? A. We were pulling the Newport News out of her dock.

Q. Did you see the steam tug Sarah of Baltimore that night? A. I did.

Q. Where did you see her? A. She left the wharf soon after I did—she was at the American Ice Company's wharf.

Q. Was she at the same wharf where you were tied up? A. At the same wharf, but just below us.

Q. About what time did you see the Sarah? A. As near as I can judge, about 9 o'clock.

Mr. DARLINGTON: I object to the last question and answer, and move to strike out on the ground that it is not rebuttal testimony, and because it is reiteration of the libelant's testimony in chief.

Q. Captain, where were you when you saw the Sarah pass? A. We had the steamer Newport News in tow.

Q. Where was that? A. We pulled the Newport News from her pier or wharf out into the stream.

Q. While you were out in the stream, was it? A. Yes, sir, the Sarah passed while we were out in the stream.

Q. Where did the Sarah go? A. Alongside the side of the steamer Columbia, or at the end of the Columbia.

Q. You could not tell what the Sarah was doing? A. No, 300 sir.

Mr. DARLINGTON: Same objection as to the last two questions and answers.

Q. Captain Taylor, a witness for the respondent, Mr. William F. Lanahan, has testified as follows:

Mr. DARLINGTON: I object to reading to this witness what some other witness has testified, as being an incompetent method of examining a witness.

(Reading the answer on page 19 in the center of the page:)

"I took the hydrant at Seventh and K streets, laid out a line of hose through the entrance of the ferry wharf—then we opened the pipe water first on boat—on the bow of the boat, and from that worked to the west side of the boat, and then borrowed a small boat, from Com. Sutton, worked that for a while—then got the use of the Carter—I think the George O. Carter—and then went up and down the stream working on side of boat putting water on ferry all the time."

What I desire to ask you is whether or not the James O. Carter was used that night in the manner as testified to by William F. Lanahan? A. No, it was not.

Q. Will you please tell us what was done with the Carter that night? A. After we finished with the steamer Newport News we proceeded to the ferry wharf and got a line out to the wharf and some firemen came down there and asked if he could get on the

301 tug and that there was fire under the wharf—I gave him permission and he got on the tug and played water on this fire under the wharf—he was there a few minutes and then he got off and said "That will do—much obliged to you."

Q. Did the tug Carter move up and down the stream alongside the ferry boat? A. She did not.

Q. Did she move from her moorings while the firemen were on on her? A. No, not while the firemen were on her.

Q. What was the condition of the fire at that time, Captain Taylor? A. Well, I considered it practically out—in so far as anything was concerned except the little fire under the wharf.

Q. Do you know the Sarah, Captain? A. Yes, sir.

Q. Do you know anything about the hose she carried? A. No, sir.

Q. Were you requested to pull out the Newport News or did you just happen to do it? A. No—we happened there when the Columbia was burning and another tug had hold of the Newport News and requested me to assist it.

Q. Was that all the Carter was used on the occasion of the fire on the Columbia? A. That is all.

Cross-examination.

(By Mr. DARLINGTON :)

302 Q. When you heard the alarm of the fire, Captain, your tug was anchored where? A. At the American Ice Company wharf.

Q. Where is that? A. They call it Ninth Street wharf.

Q. What alarm did you hear? A. I heard the fire engines going to the wharf—looked out the back window—and then rushed down to the tug.

Q. The first notice that you had of the fire then was the passage of certain fire engines down the street? A. Yes, sir.

Q. Where were you at the time? A. At my house.

Q. Where is that? A. On F street between 6th and 7th streets, southwest.

Q. How far is that from the wharf where your tug was? A. You go down two squares—down on 7th to H, from 7th to 9th street to the American Ice Company wharf—about four squares' walking distance.

Q. When had you last left your tug before you heard these engines go by? A. Some time that afternoon.

Q. Some hours should you judge? A. Yes, sir.

Q. What constituted your crew on your tug? A. We have an engineer, firemen, deck hand and myself.

Q. These men also lived in various parts of town? A. The fireman and engineer stayed on board—slept there on board.

Q. How many of these men did you find on the boat when 303 you reached it? A. Two men.

Q. How long were the others in getting there? A. I don't

know—that was all on the boat when we left the wharf to go to help pull out the Newport News—when in that dock the other man got on.

Q. How long were you in getting ready to leave the Ninth Street mooring? A. I should judge not over ten minutes.

Q. You had steam on? A. Yes, sir.

Q. Did you take any note of the time of night at that time? A. I did not.

Q. You did not look at your watch or a clock to see what time it was? A. No, sir.

Q. This occurred about a year ago? A. I have no record of the time.

Q. When were you first asked about the time of night you learned of the fire? A. When was I asked about the time?

Q. Yes. A. About two or three months ago.

Q. You were asked about two or three months ago at what time the fire occurred? A. Yes, sir.

Q. Who asked you? A. The gentleman there (pointing to Mr. Abercrombie)—Mr. Abercrombie.

Q. Where were you when you first saw the tug Sarah after you had left your moorings? A. We were at the steamer Newport News.

304 Q. Where was that? A. At her wharf—the Newport News wharf.

Q. Were you at the wharf or out in the stream when you saw the Sarah? A. Out in the stream.

Q. What part of the stream? A. Opposite her wharf.

Q. How far out in the stream? A. Well, I judge it is 75 yards, just enough for the steamer to clear the wharf nicely.

Q. Did you take any note at the time about how long you had been out in the stream with the Newport News when you saw the tug Sarah? A. We had just pulled her out of her wharf when the tug Sarah came down—she left soon after we did.

Q. How do you know? A. I judge from seeing her—she passed just after we pulled the Newport News out.

Q. When, before to-day, were you first asked how long after you had pulled the Newport News out that you saw the tug Sarah? A. I do not know.

Q. Was it at the same time you were asked the time of night the fire occurred? A. I judge it was—I think it was at the same time.

Q. You made no note of these things at the time? A. No, sir.

Q. You are simply giving your best recollection of them about a year or more after they occurred? A. Yes, sir.

Q. How many tug boats were there around that fire that 305 night? A. During the fire that night?

Q. Yes. A. Three. I am trying to think of the name of the first one—I think the name is Eugenia, a small tug, the James O. Carter and the Sarah.

Q. Are you positive these were all the tugs? A. All I know of.

The Dallas—I don't know that you would class her as a tug—she was a small steamer and had no steam on at the time.

Q. What tug was it that asked you to help pull out the Newport News? A. The Eugenia.

Q. Are you able to state positively that these three tugs were the only ones there that night? A. As near as I can recollect.

Q. There may have been others? A. Yes, sir.

Q. You say that you could not see what the tug Sarah was doing? A. No, sir.

Q. Why? A. She was at the end of the steamer—I was at the Newport News.

Q. How far? A. Probably 100 yards or possibly not quite so far.

Q. What is the name of your tug? A. The James O. Carter.

Q. When was it that these firemen asked permission to come aboard your tug? A. What time of night?

306 Q. Yes. A. I don't know.

Q. Can't you tell us that time as nearly as you can from the time you heard the alarm? A. Somewhere about 9 o'clock or after.

Q. A little after 9 o'clock some firemen got on your tug and played under the wharf? A. Yes—I think it was a little after 9.

Q. About how much after 9? A. I cannot say—I did not take note of it.

Q. Nearer 9 or 10 o'clock? A. I would not like to say that.

Q. Mr. Taylor, you are giving your recollection about other things and I would like you to be as specific about this. A. I think it was after 9 and it may possibly have been nearer 10 o'clock.

Q. At that time the fire was pretty well out? A. Yes, sir.

Q. In fact, I think your language was that the fire was practically out? A. Yes, except that under the wharf where the firemen played on it.

Re-direct.

(Mr. ABERCROMBIE :)

Q. Captain, see if you cannot fix this time a little more definitely than seems to have been done by your testimony. I understand you to say that it was about 9 o'clock, or the neighborhood of 9 o'clock, when the engines passed giving you the notice of the 307 fire. Is that right? A. I don't know that I remarked that—

I did not take notice of the time when the engines passed—I only know from the time I got down to the fire—was present at the fire—that was about the time about 9 o'clock—between the hours of 9 and 10 o'clock this occurred as near as I can recollect.

Q. You mean by getting to the fire—after you had rendered the service to the Newport News—you had pulled her out into the stream—and then had come back to the Columbia? A. I judge it was between 9 and 10 o'clock—of course I did not take notice of the time and I would not like to give the time.

Q. Where did you go after you left the Columbia? A. We went back to the wharf that we had left before we went to the fire.

Q. What did you do there? A. What did we do?

Q. Yes, after you got to the dock? A. We went home.

Q. Do you remember the time when you got home? A. I did not take notice of the time.

Q. You have been asked about the number of tugs at the fire—how many did you see at the Columbia? A. I only saw one there.

Q. Which was that? A. The Sarah.

Q. No other tugs around the Columbia? A. No, not until after we got there—the Sarah was the only one we saw at the Columbia.

Q. What were these other tugs doing that you mentioned? A. The Eugenia and the Carter?

Q. Yes. A. They pulled the Newport News out into the stream.

Filed January 13, 1905.

WASHINGTON, D. C., December 28th, 1904—11 o'clock a. m.

Met pursuant to adjournment at the office of Mr. J. J. Darlington.

Present: Mr. H. N. Abercrombie, proctor for the libellant; and Mr. J. J. Darlington, proctor for the respondent.

JOHN H. DAVIDSON, a witness produced for and on behalf of the respondent, having been first duly sworn, was examined and testified as follows:

By Mr. DARLINGTON:

Q. Mr. Davidson, you belong to the fire department? A. Yes sir.

Q. And were a member of that department on the night of the burning of the ferry boat Columbia? A. Yes, sir.

Q. To what company did you belong at that time? A. No. 6.

Q. Who was the captain of it? A. William F. Lanahan. The captains were called foremen at that time.

Q. Please state whether or not you were on board the tug-boat Carter during that night? A. We went on the tug-boat carrying our line. It was close into the dock, and afterwards they pulled a little away from the dock; and I presume we were on there twenty minutes or more.

309 Q. What were you doing on the tug-boat? A. We were playing a stream of water on the fire.

Q. On what part of the fire? The tug or the Columbia or what? A. The steamboat Columbia and also under the dock.

Cross-examination.

By Mr. ABERCROMBIE:

Q. What was the condition of the fire when you got on the Carter? A. Why, the stern of the boat, or rather the end of the boat that was not to the dock, had sunk. The forward part was still out of the water.

Q. Do you know what held the fore-part of the boat out of the water? A. Well, I do not know but that maybe it was the water had not gotten up that far yet, you know.

Q. Did you notice whether or not it was fastened—chained into the slip? A. I never noticed.

Q. Do you know what time it was when you went on the Carter? A. I could not tell you the time. I could give you the exact day and the exact time the alarm came in; I can get that from headquarters for you.

Q. But when you went on the Carter the Columbia had sunk at the stern? A. At the stern. At least it had sunk when we were on the tug.

Q. You say you threw water from the Carter. How long
310 did you do so? A. Twenty minutes.

Q. And you also stated, I believe, that the tug moved. A. Yes, the tug moved.

Q. What way did it move, Mr. Davidson? A. Well, it moved out from the dock, I suppose, about far enough for us to play water underneath the dock.

Q. Was not that the principal use of the Carter that night—putting out the fire that was on the wharf or under the wharf? A. Well, no; I don't think it was. We did not go on there for that principal use. We got on there to get out from the dock.

Q. Why did you want to get out from the dock? A. To put the fire out underneath the wharf.

Q. Well, that is just what I was asking you then: If that was not the principal reason you got on the Carter and the Carter shoved out? A. That is what she shoved out from the dock for, but I do not think that was the principal reason we got on the boat.

Q. What was the principal reason you got on the Carter? A. In order to work better. The dock was almost burned down, you know, where we were.

Q. The dock was? A. Yes, and we thought perhaps maybe it would be safer or something of that sort.

Q. You are sure you got off on the Carter? A. I am not sure I got on the Carter.

311 Q. You are not? A. No.

Q. It may have been the Sarah? A. Why, I don't know. I know we got on a tug-boat; I could not say the name because I did not see the name.

Q. What was the character of the boat? Can you describe her?

A. She was a small tug—old tug. She was not a very new tug, I don't think.

Q. Mr. Davidson, look at this map (exhibiting to the witness Defendant's Exhibit No. 3) and say whether or not you recognize it. A. This looks very much like the place where the boat was, you understand. It looks as if we were coming down with the line of hose down here out in front of the boat. This is the river here. (Indicating.)

Q. Yes, this is the river. Will you state to the best of your knowledge where the tug-boat was that you got on? A. It was about here, I think. (Indicating) That is, if the Columbia, you understand, was up in here. (Indicating the ferry slip). We got on right at this wharf, I presume, right about here (indicating the south line of "solid wharf").

Q. Mr. Davidson, did you notice whether that tug-boat was fast to the wharf by a line? A. I did not notice. I could not answer that.

Q. Did the whole boat swing out from the wharf or only the stern shift off? A. The whole tug-boat.

312 Q. Did you see any other tug-boats that night? A. Yes, sir.

Q. What ones did you see; do you know them by name? A. I don't. I saw a large tug from Baltimore. It was playing on the fire.

Q. You saw her playing on the fire? A. Yes. They were at the stern of the boat; and afterwards they came around and I went aboard of her, but I do not think we carried a line on her. I am sure we did not. I went aboard and got a drink of water in the engine room. She hailed from Baltimore. I disremember her name.

Q. Then that was not the tug that you got onto from the wharf, was it? A. Not with the line of hose. Of course I got on this tug-boat off the wharf, but I was alone to drink water.

Q. Then it was not this Baltimore tug-boat that you got onto and used the line of hose that you have testified to in your examination in chief? A. No.

313 FRANK HELLMUTH, a witness produced for and on behalf of the respondent, having been first duly sworn, was examined and testified as follows:

By Mr. DARLINGTON:

Q. You were a member of the fire department at the time of the ferry-boat Columbia fire? A. Yes, sir.

Q. And still are? A. Yes, sir.

Q. At that time were you also a member of Captain or Foreman Lanahan's Company? A. Yes, sir.

Q. Please tell us what you know about your company getting on

board a tug and fighting the fire from it. A. Well, as we got down there we were on the dock first and fought the fire; then we boarded this tug and she pulled out from the wharf ten or twelve feet, playing a stream of water on the boat and on the wharf—under the wharf.

Q. What was the condition of the fire on the boat at that time? A. Well, there was still a company on board of her. And after we got on the tug I heard them shout something about getting off, that she is going down.

Q. And how was the fire? A. Well, the fire was pretty well under control then.

Q. Still burning? A. Still burning a little.

314 Cross-examination.

By Mr. ABERCROMBIE:

Q. What was your object in getting on the tug-boat, Mr. Hellmuth? A. Well our object, I suppose, was to put the fire out under the wharf.

Q. How long were you on the tug-boat? A. I could not tell you that, sir.

Q. Haven't you any idea? A. Well, I suppose about half an hour or twenty minutes, or something like that.

Q. With respect to the sinking of the Columbia, when did you get on the tug-boat? A. Well, the stern end of her was sunk; that is, the end out from the dock was sunk when we got on the tug-boat.

Q. What kept the other end from sinking? A. I could not tell you that, sir.

Q. Did she afterwards sink? A. I do not know that; I never looked.

Q. Were you there until the fire was out? A. Yes, sir.

Q. When you left had the ferry-boat sunk entirely? A. I do not think the end up close to the dock was sunk yet; I could not say.

Q. How many men were on the Columbia at the time you heard someone call out to get off, "She is sinking"? A. I do not know how many men were on there.

Q. Have you any idea? A. I suppose a full company.

315 Q. How many men would that be? A. That would be at night-time about nine or ten men.

Q. Where did those men go to? A. I could not tell you that. I suppose they got off the boat onto the dock.

Q. Well, did you see any of them getting off? A. No; we were too busy fighting the fire.

Q. Did you see the Baltimore tug-boat that night? A. I saw the tug-boat. I do not know where she came from.

Q. Were you on her? A. No, sir; I was not.

Q. Did you see any men get on her when the boat was sinking, when you heard them call out? A. Get on the other tug?

Q. Yes. A. No, sir, I did not.

[Endorsed:] 608 District court The James Clark Co. vs. The Steam Ferry Boat Columbia *et al.* 2. Deposition behalf respondent Sur-rebuttal Filed —. J. R. Young clerk.

316

Judgment.

Filed January 26, 1905.

In the Supreme Court of the District of Columbia.

THE JAMES CLARK COMPANY OF BALTIMORE CITY } In Admiralty.
vs. } No. 608.
STEAM FERRY BOAT "COLUMBIA."

This cause, having been heard by the court, the testimony was read and argument had, and it appearing to the court that the libellant is entitled to some compensation, it is adjudged, ordered and decreed by the court this 26th day of January, 1905, that the United States Fidelity and Guarantee Company, the stipulator for the steamer "Columbia," pay, within ten days from the date of this decree, the sum of \$100 to The James Clark Company of Baltimore City, the libellant herein, or its proctor.

It is further ordered and decreed that each party shall pay its own costs to be taxed in this case.

ASHLEY M. GOULD, *Justice.*

317

Order Allowing Appeal.

Filed February 7, 1905.

In the Supreme Court of the District of Columbia.

JAMES CLARK COMPANY OF BALTIMORE CITY, &c., } Admiralty.
vs. } No. 608.
STEAM FERRY BOAT "COLUMBIA" AND OWNERS.

John R. Young, Esq., clerk :

Please enter an appeal from the decree passed in this case on the 26th day of January, 1905, to the Court of Appeals.

H. N. ABERCROMBIE,
Proctor for Libellant.

It is agreed in the above case that the appeal bond shall be \$100.00.

H. N. ABERCROMBIE,
Proctor for Libellant.
J. J. DARLINGTON,
Proctor for Respondent.

Ordered, this 7th day of February, 1905, that an appeal be allowed in the above case and that the appeal bond be fixed at \$100.00.

ASHLEY M. GOULD, *Justice.*

318

Memorandum.

February 11, 1905.—Appeal bond filed.

Stipulation as to Record on Appeal.

Filed February 7, 1905.

In the Supreme Court of the District of Columbia.

JAMES CLARK COMPANY OF BALTIMORE CITY, }
 &c., }
 vs. }
STEAM FERRY BOAT "COLUMBIA" AND } Admiralty. No. 608.
 Owners. }

It is stipulated and agreed in the above entitled case that the transcript of record for the Court of Appeals shall contain the following:

1. Libel.
2. Answer.
3. Testimony in behalf of libellants.
 In chief.
 In rebuttal.
4. Testimony on behalf of respondent.
 In chief (including report of William T. Belt).
 In sur-rebuttal.
5. Decree.
- 319 6. Order for appeal and *argument* as to amount of bond
7. Appeal bond.

H. N. ABERCROMBIE,
Pro. for Libellant.
J. J. DARLINGTON,
Proctor for Respondent.

Order Extending Time for Filing Transcript.

Filed March 10, 1905.

In the Supreme Court of the District of Columbia.

JAMES CLARK COMPANY
vs.
FERRY BOAT "COLUMBIA." } No. 608.

To the honorable the judge of said court:

The petition of The James Clark Company of Baltimore City, the libellant in the above entitled case, respectfully shows unto your honor:—

That heretofore your petitioner filed an order for an appeal to the Court of Appeals for the District of Columbia.

That before the clerk will be able to file the transcript of record in the said Court of Appeals, the time within which transcripts of records are required to be filed, will have expired.

That the clerk has been unable to complete the making up of the record, and for that reason the same cannot be filed in the time required by the rules of the Court of Appeals.

320 Wherefore your petitioner prays that the time for filing the transcript of record with the clerk of the Court of Appeals for the District of Columbia, be enlarged.

H. N. ABERCROMBIE,
Proctor for Petitioner.

Upon the foregoing petition it is ordered by the court this 10th day of March, 1905, that the time for filing the record thereof with the clerk of the Court of Appeals of the District of Columbia be, and the same is hereby enlarged, up to and including the 15th day of April, 1905.

ASHLEY M. GOULD, *Justice.*

321 Supreme Court of the District of Columbia.

UNITED STATES OF AMERICA, } ss:
District of Columbia, } ss:

I, John R. Young, clerk of the supreme court of the District of Columbia, hereby certify the foregoing pages, numbered from 1 to 320, inclusive, to be a true and correct transcript of the record, as per stipulation of counsel herein filed, copy of which is made part of this transcript, in cause No. 608, in admiralty, wherein The James

Clark Company of Baltimore City, a body corporate, owner of the steam tug "Sarah," is libellant, and The Steam Ferry Boat "Columbia" and Owners are libellees, as the same remains upon the files and of record in said court.

In testimony whereof, I hereunto subscribe
Seal Supreme Court my name and affix the seal of said court, at
of the District of the city of Washington, in said District, this
Columbia. 14th day of April, A. D. 1905.

JOHN R. YOUNG, *Clerk.*

Endorsed on cover: District of Columbia supreme court. No. 1543. The James Clark Company of Baltimore City, a body corporate, owner of the steam tug "Sarah," appellant, vs. The Steam Ferry Boat "Columbia," and Owners. Court of Appeals, District of Columbia. Filed Apr. 21, 1905. Henry W. Hodges, clerk.